NOTE

This Microfiche meets the quality requirements of the American National Standard for Microfiche of Documents (ANSI PH5.9-1975). However, because of imperfections in the document from which it was made, it contains images that are illegible or difficult to read. The source document for this microfiche is the best copy that could be obtained prior to filming.

CIS Congressional Information Service
Washington, D.C.

S. HRG. 101-875 PT. 1

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1990

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

H.R. 2989

AN ACT MAKING APPROPRIATIONS FOR THE TREASURY DEPARTMENT, THE UNITED STATES POSTAL SERVICE, THE EXECUTIVE OFFICE OF THE PRESIDENT, AND CERTAIN INDEPENDENT AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1990, AND FOR OTHER PURPOSES

PART 1 (Pages 1-1045)

Administrative Conference of the United States
Advisory Commission on Intergovernmental Relations
Advisory Committee on Federal Pay
Committee for Purchase From the Blind and Other Severely Handicapped
Department of the Treasury
General Services Administration
U.S. Merit Systems Protection Board
U.S. Postal Service
U.S. Tax Court

Printed for the use of the Committee on Appropriations

U.S. GOVERNMENT PRINTING OFFICE

93-271 ⇆ WASHINGTON : 1990

S181-9

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

COMMITTEE ON APPROPRIATIONS

ROBERT C. BYRD, West Virginia, *Chairman*

DANIEL K. INOUYE, Hawaii
ERNEST F. HOLLINGS, South Carolina
J. BENNETT JOHNSTON, Louisiana
QUENTIN N. BURDICK, North Dakota
PATRICK J. LEAHY, Vermont
JIM SASSER, Tennessee
DENNIS DeCONCINI, Arizona
DALE BUMPERS, Arkansas
FRANK R. LAUTENBERG, New Jersey
TOM HARKIN, Iowa
BARBARA A. MIKULSKI, Maryland
HARRY REID, Nevada
BROCK ADAMS, Washington
WYCHE FOWLER, Jr., Georgia
J. ROBERT KERREY, Nebraska

MARK O. HATFIELD, Oregon
TED STEVENS, Alaska
JAMES A. McCLURE, Idaho
JAKE GARN, Utah
THAD COCHRAN, Mississippi
ROBERT W. KASTEN, Jr., Wisconsin
ALFONSE M. D'AMATO, New York
WARREN RUDMAN, New Hampshire
ARLEN SPECTER, Pennsylvania
PETE V. DOMENICI, New Mexico
CHARLES E. GRASSLEY, Iowa
DON NICKLES, Oklahoma
PHIL GRAMM, Texas

JAMES H. ENGLISH, *Staff Director*
MARY S. DEWALD, *Chief Clerk*
J. KEITH KENNEDY, *Minority Staff Director*

SUBCOMMITTEE ON TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

DENNIS DeCONCINI, Arizona, *Chairman*

BARBARA A. MIKULSKI, Maryland
J. ROBERT KERREY, Nebraska
ROBERT C. BYRD, West Virginia
ex officio

PETE V. DOMENICI, New Mexico
ALFONSE M. D'AMATO, New York
MARK O. HATFIELD, Oregon
ex officio

Professional Staff
PATTY LYNCH
REBECCA M. DAVIES (Minority)
Administrative Support
URSULA P. MAURER

CONTENTS

FRIDAY, FEBRUARY 24, 1989

	Page
Committee for Purchase From the Blind and Other Severely Handicapped	1
Department of the Treasury: U.S. Customs Service	21

WEDNESDAY, MARCH 1, 1989

Administrative Conference of the United States	215
U.S. Tax Court	275
Advisory Commission on Intergovernmental Relations	291
Advisory Committee on Federal Pay	353

FRIDAY, MARCH 3, 1989

Department of the Treasury:	
U.S. Secret Service	367
Bureau of Alcohol, Tobacco and Firearms	412
Federal Law Enforcement Training Center	475

WEDNESDAY, MARCH 8, 1989

Department of the Treasury:	
Departmental Offices	509
Office of the Inspector General	534
Financial Management Service	554
Bureau of the Public Debt	613
U.S. Mint	639

FRIDAY, MARCH 10, 1989

Department of the Treasury: Internal Revenue Service	659
U.S. Postal Service	843

WEDNESDAY, MARCH 15, 1989

U.S. Merit Systems Protection Board	895
Office of Special Counsel	917
General Services Administration	935
Office of the Inspector General	1031

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1990

FRIDAY, FEBRUARY 24, 1989

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9:35 a.m., in room SD–116, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present: Senators DeConcini, Domenici, D'Amato, and Kerrey.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

STATEMENT OF FRANK GEARDE, JR., CHAIRMAN

ACCOMPANIED BY BEVERLY L. MILKMAN, EXECUTIVE DIRECTOR

INTRODUCTION OF WITNESSES

Senator DECONCINI. The Subcommittee on Treasury, Postal Service, and General Government will come to order.

This is the first of our hearings on the 1990 budget. The subcommittee is going to conduct, I think, about 15 of these hearings. The new staff director for the subcommittee is Patty Lynch, who is on my left.

This morning, we are going to receive testimony from the Committee for Purchase From the Blind and Other Severely Handicapped, and from the U.S. Customs Service.

Senator, come on in. This is Senator Kerrey, a new member of the subcommittee. Bob, you can sit right there. We are glad to have you.

This morning, we have with us Mr. Frank Gearde, Jr., Chairman of the committee, and Ms. Beverly Milkman, Executive Director. We welcome you both and would request that you give us a summary of your testimony. Your full statements will appear in the record.

If Senator Kerrey has any opening remarks, I will yield to him at this time.

Senator KERREY. I don't.

Senator DECONCINI. Please proceed.

PRESENTATION OF SUMMARY STATEMENT

Mr. GEARDE. Thank you, Mr. Chairman. It is a pleasure for us to be here today to discuss the committee's fiscal year 1988 operations and our fiscal year 1990 budget request. As you stated, with your permission, I will submit my written statement for the record and summarize the more significant points.

With me today, as you mentioned, is Beverly Milkman, who joined the committee as Executive Director last August. Ms. Milkman succeeded Charles Fletcher, who retired last year after 16 years as Executive Director of the committee staff.

I would like to begin by emphasizing a point made in my written statement. To be blunt, this is not the time for business as usual. Fiscal year 1988 was a year of substantial change for the committee's program.

In addition to the retirement of its long-time Executive Director, Mr. Fletcher, the committee was confronted with a Defense Department procurement moratorium that resulted in reductions in workshop sales to the Government.

Of greater long-term concern was the acceleration of a trend toward more flexible Federal procurement practices. In fiscal year 1988, Government buyers were given greater latitude to make purchases from commercial vendors.

While laudable in many respects, these changes pose a substantial threat to future workshop sales. Buyers accustomed to making purchases at a local office supply or furniture store may not stop to consider or may not know that an item they need is on the committee's procurement list and, by law, can only be purchased from a workshop. Similarly, procurement personnel who become accustomed to taking advantage of commercial vendors' sales may be reluctant to pay even a minimally higher price for items produced by workshops. This is particularly likely, given today's Federal resource constraints.

The point, of course, is that reduced workshop sales translate into fewer employment and training opportunities for persons with severe disabilities. Since the committee's mission is to help generate such opportunities, we are obviously concerned about this prospect.

Although program growth continued in fiscal year 1988, it slowed significantly. Commodity sales actually fell for the first time since 1976 and for only the second time since the program's inception. As a result, many disabled workers, particularly blind persons, experienced reductions in hours worked and wages earned.

FISCAL YEAR 1990 BUDGET REQUEST

That brings us to our fiscal year 1990 budget request. In it, you see for only the second time since I have been associated with the committee an increase of more than a few thousand dollars.

The extra $75,000 reflects the committee's commitment to maintaining and increasing work and training opportunities for persons with severe disabilities. The largest component of the increase is a request for $50,000 in research funds. We are also seeking a $7,000 increase in travel funds.

The research funds will be used to support studies of program operations and impacts. The resulting information will not only enable us to improve operations; it will also help us to do a better job of educating current and potential workshop customers about the program and its benefits. In other words, it will improve our ability to market the program.

The extra travel dollars will be devoted to an expanded workshop visitation effort which will involve committee staff and members. This initiative is expected to enhance the committee's ability to assure that workshops comply with established rules, as well as contribute to education and promotion efforts.

We are not at this time seeking additional staff members. In accordance with the committee's tradition and the overall restraints on Federal expenditures, we are striving to do the job with the 13 employees allotted for fiscal year 1988.

PREPARED STATEMENT

I appreciate your consideration today and hope you will respond positively to our request for a minimal and critical increase in funds. As I have indicated, the resources will help the committee meet the challenge it faces in continuing to provide stable employment and on-the-job training opportunities for thousands of deserving individuals with severe disabilities.

We are pleased to take any questions you may have.

[The statement follows:]

STATEMENT OF MR. FRANK GEARDE, JR.

Mr. Chairman, we are pleased to appear here today to present the appropriations request of the Committee for Purchase from the Blind and Other Severely Handicapped for fiscal year 1990.

This Committee was created by the Javits-Wagner-O'Day Act (Public Law 92-28) in 1971, and is composed of 15 members appointed by the President. As mandated by the statute, 11 of the 15 are Federal employees representing various agencies, while the other four members are knowledgeable about the employment problems of persons with blindness and other severe disabilities. These four, whom the statute prohibits from being Federal employees, may be employees of state and local governments or private citizens. They are appointed for five-year terms. Government members' terms are determined by the leadership of their respective agencies. The Committee normally meets once a month, but members also devote at least some time each week to Committee business, much of which is conducted through formal correspondence.

The long-range goals of the Committee are to increase employment opportunities for persons with severe disabilities and, whenever possible, to prepare them to engage in normal competitive employment. Our primary means of achieving these goals is by directing Federal Government procurement of selected commodities and services to workshops serving such individuals. As stipulated by the Javits-Wagner-O'Day Act, the Committee determines which products and services purchased by the Federal Government are suitable for provision by qualified workshops. These items are published annually in our Procurement List, which we distribute to procuring agencies throughout the country. We also establish the prices which must be paid for the commodities and services included on the Procurement List.

The Committee is responsible for other functions as well. These include educating Federal officials about the Javits-Wagner-O'Day Program and soliciting their support. In addition, we are responsible for monitoring the performance of participating workshops and providing guidance to workshops and the two central nonprofit agencies authorized to help them take part in our program. Those agencies are the National Industries for the Blind and the National Industries for the Severely Handicapped.

To assist in the implementation of the program, the Committee employs a full-time staff of 13 persons. The staff is responsible for developing recommendations on

proposed additions to the Procurement List and other appropriate matters for the consideration of the Committee. Staff activities include assisting in the establishment and revision of fair market prices for commodities and services; verifying the qualifications and monitoring the performance of workshops; and serving as a link between the workshops, the central nonprofit agencies, and Federal Government units in expanding the program and resolving problems.

In addition, the staff handles all the administrative functions for the Committee. These include developing policies and procedures, initiating and responding to correspondence, preparing the Committee's budget, and performing the numerous other functions required of an independent Federal agency.

Fiscal year 1988 was a year of substantial change for the program. First, Charles W. Fletcher, who had served as Executive Director since the program's inception in the early 1970's, retired in April. Second, the Defense Department, which accounts for more than 75 percent of workshop sales under the program, placed a moratorium on procurement which initially applied to commodities produced by workshops. Third, Federal procurement procedures continued to be made more flexible, particularly within the Defense Department. This liberalization of procedures substantially increases the potential for reductions in purchases from the General Services Administration and, as a result, from workshops.

These occurrences and the continuing Federal spending constraints associated with the deficit influenced not only the Committee's fiscal year 1988 performance, but also our fiscal year 1990 budget request.

With regard to our record over the past year, I am pleased to advise you that although program growth slowed, it did continue. Workshops reported that during the fiscal year, 16,783 persons with disabilities were employed in conjunction with services and commodities provided to the government under the Committee's program. This was an increase of almost 800 over the previous fiscal year. These individuals worked more than 13 million hours at an average hourly wage of $4.50, representing $58.7 million in total wages. In each case, these figures represent gains over fiscal year 1987.

Workshop sales to the Federal Government and to customers in military commissaries and exchanges also increased slightly. Almost $331 million in commodities and services was purchased from workshops under the Committee's program in fiscal year 1988, as compared to $328 million in 1987. It should be noted, however, that the increase was attributable to service contracts. Not surprising, given the nature of the obstacles that arose, commodity purchases actually fell. This had a particularly severe impact on employees of workshops serving the blind.

Despite the problems encountered in fiscal year 1988, the number of commodities and services the Committee added to its Procurement List substantially surpassed the previous year's record. In total, 57 commodities and 66 services were added, representing an estimated $29 million in annual sales. These additions are expected to generate the equivalent of more than 700 new full-time jobs for persons with severe disabilities.

During the past year, the number of workshops participating in the Committee's program also increased, reaching a total of 345 by the end of September 1988. This represented an increase of 25 over the previous fiscal year. Thirty-four workshops entered the program and nine dropped out. Of the 34 new entrants, 33 were workshops serving the "other severely handicapped."

Committee staff conducted on-site reviews of the operations of 143 workshops and 10 satellite operations linked to seven of those workshops during the fiscal year. In addition to monitoring workshop compliance with Committee rules and regulations, staff members provided help to workshops in resolving production and other problems associated with participation in the program.

The long-term nature of the difficulties encountered in fiscal year 1988 and the continuing employment and training needs of persons with severe disabilities convinced the Committee and the Administration that changes in program operations were needed. This is not the time for business as usual.

The appropriation request before you today reflects some of the changes we regard as essential to the continued success of the program. The amount we are seeking for fiscal year 1990 is $937,000, which is an increase of $75,000 over the appropriation for fiscal year 1989. The largest component of that increase is a request for $50,000 in research funds for program evaluation and education purposes. We are also seeking a $7,000 increase in travel funds.

The request for increases in these two categories stems directly from the Committee's recognition of the need to strengthen and expand the Javits-Wagner-O'Day Program. In the case of research, we are seeking a limited amount for fiscal year 1990, which we hope to supplement with funds from other Federal agencies and

foundations. The resources will be used to support studies of program operations and impacts. These studies will primarily be conducted by private sector consultants, but the Committee staff has been restructured to permit some in-house analyses. The resulting information will not only enable us to improve operations, but also to do a better job of educating current and potential workshop customers about the effects of their purchases on persons with severe disabilities.

The additional travel resources requested reflect the ever increasing number of workshops, and a more in-depth approach to workshop reviews. Through this modified approach, we will obtain more information about performance in such areas as upward mobility for severely disabled workers and placement of such individuals in competitive jobs. We also intend to devote additional time to providing technical assistance to those workshops experiencing production, marketing, or other problems. Increased funds will be used to support expanded travel by Committee members and staff for education and promotion purposes as well. The additional information obtained as a result of these changes will compliment the results of research and lead to improved operations and a more effective marketing program.

The other budget categories that show significant increases are personnel compensation and civilian personnel benefits. You should be aware that the increases are not attributable to any expansion of the staff. Despite the challenge we face, the Committee is not requesting additional staff members at this time. Instead, we have chosen to restructure the staff to increase its efficiency and effectiveness. The increases sought are the minimal amount needed to cover actual costs.

In closing, I want to emphasize the Committee's commitment to this program and the people it is intended to benefit. As directed by Congress when the legislation was passed in 1971, we view ourselves as an "active force within the government" in promoting the sale of workshop products and services to the Federal Government.

SALARIES AND EXPENSES

For expenses necessary of the Committee for Purchase from the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92-28 ($862,000) *$937.000*

PROGRAM AND PERFORMANCE

The Committee for Purchase from the Blind and Other Severely Handicapped was established by the Wagner-O'Day of 1938, as amended. Its primary objective is to increase the employment opportunities for the blind and other severely handicapped and, whenever possible, to prepare them to engage in competitive employment. In 1990, 19,250 blind and otherwise handicapped individuals are projected to be employed in 375 producing workshops. The Committee's duties include determining which commodities and services are suitable for Government procurement from qualified nonprofit agencies serving the blind and other severely handicapped; publishing a procurement list of such commodities and services; determining the fair market price for commodities and services on the procurement list; and making rules and regulations necessary to carry out the purposes of the Act. In fiscal year 1990 the Committee expects to have 2,510 items on its Procurement List, and estimated workshop sales of $400 million.

The Committee staff's responsibilities include promoting and assessing the overall program; supervising the selection and assignment of new commodities and services; assisting in establishing prices; reviewing and adjusting these prices; verifying the qualifications of workshops; and monitoring their performance.

PROGRAM AND FINANCING

[In thousands of dollars]

	1988 actual	1989 estimate	1990 estimate
SALARIES AND EXPENSES			
Program by activities:			
Select, price, and assign products and services of the blind and other severely handicapped for supply to the Government. (Total program costs, funded)	810	862	937
Change in selected resources (undelivered orders)			
Total obligations	810	862	937
Financing:			
Unobligated Balance Lapsing	40		

PROGRAM AND FINANCING—Continued

[In thousands of dollars]

	1988 actual	1989 estimate	1990 estimate
SALARIES AND EXPENSES			
Budget Authority	850	862	937
Budget Authority: Appropriation	850	862	937
Relation of obligation to outlays:			
Obligations incurred, net	810	862	937
Obligated balance, start of year	52	150	86
Obligated balance, end of year	−150	−86	−89
Adjustment in expired accounts	−3		
Outlays, excluding pay raise supplemental	709	926	934

SALARIES AND EXPENSES—OBJECT CLASSIFICATION

[In thousands of dollars]

	1988 actual	1989 estimate	1990 estimate
Personnel compensation:			
Full-time permanent	390	495	476
Other than full-time permanent	12	13	53
Other personnel compensation	1	8	0
Special personnel service payments	0	0	0
Total personnel compensation	403	516	529
Civilian personnel benefits	47	60	70
Travel and transportation of persons	55	63	70
Rental payments to GSA	62	63	64
Communications, utilities, and miscellaneous charges	20	29	27
Printing and reproduction	47	47	46
Other services	78	73	120
Supplies and materials	9	9	6
Equipment	88	2	5
Total obligations	810	862	937

PERSONNEL SUMMARY—SALARIES & EXPENSES

	1988 actual	1989 estimate	1990 estimate
Total number of permanent positions	13	13	13
Full-time equivalent of other positions	.20	.20	.20
Total compensable work years	12.50	12.50	12.75
Average GS grade	10.54	11.08	11.15
Average GS salary	$38,009	$38,733	$39,814

SALARIES AND EXPENSES—DETAIL OF PERMANENT POSITIONS

	1988 actual	1989 estimate	1990 estimate
ES–5	0	1	1
GS–16	1	0	0
GM–15	1	1	1
GM–14	0	1	1
GM–13	2	2	2
GS–12	3	2	2
GS–11	0	1	1
GS–10	0	0	1
GS–9	2	2	1

SALARIES AND EXPENSES—DETAIL OF PERMANENT POSITIONS—Continued

	1988 actual	1989 estimate	1990 estimate
GS–8	0	1	1
GS–7	1	2	2
GS–6	2	0	0
GS–5	1	0	0
Total permanent positions	13	13	13
Unfilled positions, end of year	0	0	0
Total permanent employment, end of year	13	13	13

FISCAL YEAR 1988 WORKSHOP SALES

Senator DECONCINI. Thank you, Mr. Gearde, very much.

I haven't seen your study or your records, but do you have any figures on how many procurement contracts you were involved in last year dealing with the handicapped?

Ms. MILKMAN. In terms of sales, we had $331 million in sales.

Senator DECONCINI. $331 million?

Mr. GEARDE. Yes, total.

Senator DECONCINI. You don't know how many contracts that represents?

Ms. MILKMAN. I don't know how many individual contracts that represents. We can get that for the record.

Senator DECONCINI. Maybe you can supply that for us. I would also like to know how that compares to the year before, just for comparison purposes.

Ms. MILKMAN. The sales figure is only $3 million more than the year before.

Senator DECONCINI. I would also like to know how many different individual contractors that includes.

Mr. GEARDE. OK.

[The information follows:]

Fiscal year 1988—648 contracts involving 255 workshops.
Fiscal year 1987—669 contracts involving 243 workshops.

RESEARCH AGENDA

Senator DECONCINI. You are calling for a $75,000 increase, which I think is modest under the circumstances, although we are looking for no increases in some budgets, and you are going to spend $50,000 of this to fund a study of programs, operations, and impacts.

Do you really need a market research program to do that? What brings you to the conclusion that you want to do a study?

Ms. MILKMAN. Well, first of all, we are talking about more than one study. Although with $50,000 we will be limited in terms of what we can do.

Senator DECONCINI. That is going to pay for more than one study?

Ms. MILKMAN. Yes; probably two or three fairly small ones, things that will give us more information on the impacts of the

program, what kinds of people are being helped, the quality of the goods.

Senator DECONCINI. I see; you plan to go back and look at the contractors to see what is happening?

Ms. MILKMAN. Yes; these are things that really have not been looked at in this way in the past. We think it is needed, as the chairman said, because of the problems that the program is facing right now.

Senator DECONCINI. You don't have any way to monitor that internally, I take it.

Ms. MILKMAN. Well, we do have a system internally, but it is limited. We have two staff engineers—at the present time, we only have one because we have a vacancy that we are in the process of filling. They do travel to the workshops, but there is a limited amount of time that they can spend at them.

The number of workshops is growing. We had 345 in the program as of the end of fiscal year 1988. Today, we have 363. There are new ones coming in literally every week.

Senator DECONCINI. All the time.

Ms. MILKMAN. And there is just no way, one, that they can spend the amount of time on site that would be needed to get some of this information. And, two, there is a limit; we only have two people and they can't visit them all in any given year.

Senator DECONCINI. We understand the committee is undertaking an education and promotional program to educate Federal policymakers. Could you tell us how you plan to implement that particular initiative, and tell us if you can do it without adding more people?

Ms. MILKMAN. We think we can do it without more people. If we had other staff, of course, that would be helpful. We have a number of things that we have identified that we are going to be doing.

We are beefing up some of our materials. Our annual report, which has been a very small volume that doesn't really tell you a lot—we have expanded that considerably. It will be used for marketing with policymakers, as well as procurement people.

Our procurement list which we put out every year has been beefed up and made a little more attractive to look at, and it will be disseminated more broadly than it has been in the past.

We hope to do a video. We don't have a brochure on our program, even a little handout. We are going to do that. We are going to be doing more speaking at conferences of procurement officials, those kinds of things.

Senator DECONCINI. You can do that without any more personnel?

Ms. MILKMAN. It will be difficult but we probably can. If we had another staff member, it would certainly help.

TRAVEL PLANS

Senator DECONCINI. I see your travel budget is only $7,000, is that right?

Ms. MILKMAN. No; only $7,000 more than last year.

Senator DECONCINI. How much is the travel budget?

Ms. MILKMAN. I believe it is $70,000.

Senator DECONCINI. $70,000. What percentage of the workshops do you get to see for that amount?

Ms. MILKMAN. We will be visiting—with regard to our contract compliance monitoring—we will be going to see about one-third of them.

Senator DECONCINI. About one-third of them?

Ms. MILKMAN. Yes.

Senator DECONCINI. Is that pretty normal every year?

Ms. MILKMAN. This does represent a change from the past. In the past, we tried to go to one-half of them every year. We have recently modified our approach. We will be going to a smaller number, but we will be devoting more time to each workshop visit.

In addition, the two nonprofit organizations which work with us are going to be going to more places than they have in the past, and they will be sharing the results of their visits with us. They will be asking the same questions and looking at the same data that we are looking at.

Senator DECONCINI. We note that in fiscal year 1989 the committee added a new position and upgraded another position to the professional level. When filling these new positions, does the committee make an effort to hire handicapped individuals?

Ms. MILKMAN. Yes; we do.

Senator DECONCINI. How many handicapped individuals are presently on the staff of the committee?

Ms. MILKMAN. At the present time, including the committee and the staff, we have a total of 16 individuals. Of those 16, 4 have targeted, very severe disabilities. Just within the last 2 months, we have hired for the first time ever a blind person as a professional member of our staff.

Senator DECONCINI. And you are satisfied with their performance? Can they provide what you need?

Ms. MILKMAN. Absolutely.

Senator DECONCINI. Or do you feel the pressure that you have to hire handicapped persons, either from us or from——

Ms. MILKMAN. Well, we certainly think it is important that, to the extent we can, that we hire persons with disabilities. And, again, I am not going to hire someone who can't do the job, but I think there are people out there who can do the job, and so we make every effort.

Senator DECONCINI. How do you recruit for that? Do you advertise?

Ms. MILKMAN. We advertise. We also go through the regular civil service procedures. We go to organizations that work with people with severe disabilities and we let them know. They put notices in their newsletters and things like that.

Senator DECONCINI. I have no further questions.

Senator Kerrey, do you have any questions?

Senator KERREY. I don't know what you do. [Laughter.]

Ms. MILKMAN. Would you like to hear about it?

Senator DECONCINI. Why don't you tell Senator Kerrey what you do?

Senator KERREY. I am trying to get a picture. You have 362 workshops. Is that in 362 different communities? Are you connected with community-based groups and institutions?

Ms. MILKMAN. By and large. You know, there are some communities like New York City where there is more than one workshop. But we generally work with the rehabilitation services agencies. They are nonprofit organizations that are located throughout the country. I don't know how many we have in Nebraska, but there are some there.

Senator KERREY. Rehabilitation services agencies?

Ms. MILKMAN. Yes; by and large, yes. They are nonprofit workshops. Some of them primarily provide employment and training opportunities. Others provide a wide range of rehabilitative and other services.

Senator KERREY. But this is not State rehabilitative services? This is actually a——

Ms. MILKMAN. Some of them are State agencies. Most of them are nonprofit independent organizations, though, and we don't give them money to operate.

What we do through our program is to direct Federal procurement dollars to them. In other words, the Federal Government will buy commodities or services from the workshops. The workshop enters into a contractual relationship with the Federal agency, and they take that money and produce the product or provide a service. And then that money is used to provide training and employment opportunities for their clients.

Senator KERREY. Your cost, as I see it, is about $2,100 a workshop?

Ms. MILKMAN. If you costed it out like that, you could say that that was the cost, yes.

Senator KERREY. Do you cost it out that way?

Ms. MILKMAN. We don't look at it in that way, no. We probably would be more likely in doing the cost benefit analysis to look at the number of person-years of work that are generated as a result of our efforts.

Senator KERREY. Which is about $20,000 a person?

Ms. MILKMAN. We haven't done that. I can tell you in just a minute. In terms of the last year, we had——

Senator KERREY. 17,000 people?

Ms. MILKMAN. Well, the people are the individuals involved. I have a background as an evaluator, so I tend to be rather specific in this regard. The total number of person-years that were generated last year as a result of the committee's efforts were 7,500.

But some of the individuals employed didn't work a full person-year. I mean, some people are not capable of working full time, so that you have a little more than twice as many people as you actually have person-years.

Mr. GEARDE. These are more severely disabled individuals.

Senator KERREY. Describe what is severely disabled.

Mr. GEARDE. Tell him, Beverly.

Ms. MILKMAN. OK. Well, it depends. You could have a blind person who is also mentally retarded. With regard to our definition

of a severe handicap in the case of blind, it is legal blindness, and there is a strict definition for that which is in the statute and it basically means that you can't see.

In addition, for the other severely handicapped, we tie that definition to ability to work, but there are specific disabilities like mental retardation. In fact, 80 percent of all the people in our other severely handicapped workshops are mentally retarded.

INTERACTION WITH WORKSHOPS

Senator KERREY. Then do you work pretty actively with community-based mental retardation services in the States?

Mr. GEARDE. We in the committee don't as much as the workshops.

Senator KERREY. But do they approach you to do workshops?

Ms. MILKMAN. They do not approach us directly. First of all, the way this system works is that the committee and the staff are very small. There are two fairly sizable nonprofit organizations whose existence is authorized by our statute. One is called the National Industries for the Blind and the other is called the National Industries for the Severely Handicapped, and they have staffs of approximately 100 each.

The workshops work more directly with them than with us. They provide technical assistance to the workshops and to the people who are concerned with mental retardation issues at the local level.

And they come to them and say, "You know, we would like to get some Government business; can you help us do it?" Then the nonprofit organizations provide some technical assistance to them. The end results of that come to us—although we are involved sometimes before that point too—and we take it from there in terms of trying to make sure that they get contracts.

Senator KERREY. So, worst case scenario: Your budget goes away entirely and you all find employment elsewhere. Do these workshops continue?

Mr. GEARDE. The workshops may continue, but the volume of the work they would have there probably would be reduced substantially. The $331 million that is spent at the workshops supports work that is performed by the severely disabled individuals that provide our products or the particular item or service that we buy from their workshop.

For example, paper clips, ballpoint pens, janitorial services are performed throughout the country in a number of Federal facilities. They are performed by those individuals who perhaps would not have an opportunity to work in private industry because of their severe disability. They tend to be more severe than those that you would find in persons with disabilities in the normal workplace.

So without our program, there would be quite a loss to these workshops, as happened this past year. A number of the things that happened in the procurement community caused a breakdown in our ability to have work for some of these workshops. Consequently, those people were put on unemployment for the period of time they were not able to work in the work centers.

Ms. MILKMAN. The other thing is that we are responsible for adding items to the procurement list which we maintain, which is what gives them their work in the first place. And then we are also responsible for setting the prices for those items and revising the prices over time.

So if our staff were to disappear, I don't know who would do that, and that has to be a part of the program.

Senator DECONCINI. If you did disappear, the only way—I mean, each agency would have to seek these types of workshops on their own.

Ms. MILKMAN. That is right, that is right. Every individual agency would have to——

Senator DECONCINI. So you are kind of the central point.

Mr. GEARDE. The oversight.

Senator DECONCINI. If you are the FAA and you have something that the FAA purchases, you attempt to put the FAA in touch with the workshop that might be able to supply the agency with what they need. Is that what you do?

COMMITTEE MEMBERS

Mr. GEARDE. Well, sir, there is a 15-person committee in addition to the 13-person staff. I am a member of the committee, which is appointed by the President. We are—11 of us are Federal employees, 4 from the Department of Defense and the rest from executive agencies. Then we have four private citizens.

Our time is provided in addition to the committee staff that she is executive director of. I work for the Department of Agriculture as a procurement executive there.

Senator DECONCINI. I see.

Mr. GEARDE. So I am the person responsible for procurement in Agriculture, whereas we have people from the General Services Administration.

Senator DECONCINI. Are most of those people procurement people from the agencies?

Mr. GEARDE. Generally, they are the people that have the responsibility for the procurement function. We have someone from Vocational Rehabilitation Services that is directly responsible for——

Senator DECONCINI. You are appointed by the President?

Mr. GEARDE. Yes, sir.

Senator DECONCINI. And how were you selected?

Mr. GEARDE. I was nominated by the Secretary of Agriculture in 1980.

Senator DECONCINI. By the Secretary. He was asked to come forward with somebody?

Mr. GEARDE. Yes; he was asked to appoint somebody. The law designates certain agencies to participate in the program.

Senator DECONCINI. Oh, it does?

Mr. GEARDE. Yes; the law provides who those representatives will be. As the procurement executive for Agriculture, I am the person who was recommended by the Secretary and appointed by the President. I have been on the committee since 1980.

Senator DECONCINI. Offhand, have you ever heard of Garden Park Enterprises in Phoenix, AZ?

Ms. MILKMAN. I have not heard of that one, and I have been to Phoenix.

Senator DECONCINI. That is a workshop shelter there and I just wondered if——

Ms. MILKMAN. Yes; I don't believe they are participating in our program because Phoenix is an area I have visited.

Senator DECONCINI. It is a nonprofit organization that my wife and I are busy raising money for and I just wondered if they had any Federal contracts. Would you know if they had any Federal contracts?

Ms. MILKMAN. I would know if they had contracts under our program.

Senator DECONCINI. I could ask them, too.

Mr. GEARDE. We will find out.

Senator DECONCINI. Sure.

Mr. GEARDE. But we would like to offer an invitation, sir, in Nebraska—I know we have a number of work centers that are there that participate in the program, and we are happy to provide information about those and a list of all the work centers that participate in the program for the record, if it would be helpful.

Senator DECONCINI. If you provide one, say, in Arizona, you are going to be able to show Senator DeConcini and Senator McCain and anybody who wants to know from Arizona how many Federal contracts that workshop has, whether it is 1 or 20, and how many dollars go to that?

Mr. GEARDE. Yes, sir; we can do that.

ACQUISITION OF CONTRACTS

Senator DECONCINI. Can you also show what you had to do with getting them that contract?

Ms. MILKMAN. Sure.

Senator DECONCINI. I suspect some of the workshops get contracts on their own.

Ms. MILKMAN. They have to come through our system if they want to be assured of getting it year after year.

Senator DECONCINI. I see.

Ms. MILKMAN. That is the beauty of this program and this is why it was set up in the first place.

Senator DECONCINI. But what if some workshop goes to the procurement officer at Luke Air Force Base, and he says, yes, we will buy your ballpoint pens? The workshop then would not have to go through you.

Ms. MILKMAN. Well, they don't have to, but then they have to compete year after year.

Senator DECONCINI. I see.

Ms. MILKMAN. If they want to put it on our list and be assured of getting it year after year, they have to come to us.

Senator DECONCINI. Without competition?

Mr. GEARDE. That is right.

Senator DECONCINI. I see.

Ms. MILKMAN. Absolutely. The aggressive workshop director should be doing that.

Mr. GEARDE. They should be visiting the procurement activity, and our job is to try to help the workshops and the procurement community to get together so they can negotiate new items that can be added to the procurement list, and that is one of the things we are going to try to do this year.

There is a lot of competition in the procurement arena for the Federal dollar. Our program is approximately one percent of that money that is spent in the small business community in procurement by the Federal Government. It is a very small amount and it goes directly to helping those people that have a real need and are severely disabled.

SUBMITTED QUESTIONS

Senator DECONCINI. Senator Domenici, the ranking member of our subcommittee, is on his way down and he was not able to get here for the beginning of the hearing, but he asked me to submit these questions to you, and I will just hand them to you and you can send the answers back in a timely manner, if you would. I also have some questions from Senator D'Amato for you to answer.

Mr. GEARDE. Yes, sir.

Senator DECONCINI. I have no further questions. Thank you very much.

Mr. GEARDE. Thank you, sir.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR DOMENICI

Question 1. The Fiscal Year 1990 budget requests a $47,000 increase in "other services" from $73,000 in Fiscal Year 1989 to $120,000 in Fiscal Year 1990. I assume this $47,000 is that portion of the $50,000 increase being requested in research funds for program education and evaluation which will be conducted by private sector consultants; it this correct? Where is the remaining $3,000 of the $50,000 increase being requested for this program education and evaluation?

Answer. Your assumption is correct; the $47,000 does comprise most of the $50,000 increase requested in research funds for program education and evaluation efforts. The remaining $3,000 will also come out of the "Other Services" category. We anticipate cost savings in other elements of that object class which will enable us to have a total of $50,000 for program education and evaluation.

Question 2. Can you be more specific as to the program education and evaluation activities to be conducted with the $50,000 increase requested for this purpose? What additional activities would you undertake if additional resources were provided? What additional funding would be required? Could you, for example, utilize $100,000 effectively?

Answer. The Committee is in the process of developing a specific research agenda as part of an overall education/promotion strategy. Until that effort is completed, no decision will be made on which specific study(ies) will be undertaken. Examples of the types of research that might be undertaken include:

- o analysis of workshop employee characteristics (e.g., age, number and extent of disabilities, etc.);
- o examination of the opportunities and obstacles to promoting target population in the workshop;
- o analysis of wages paid to disabled versus non-disabled workshop employees;
- o cost/benefit analysis of the Committee Program that takes into account savings and benefits to various levels of government as a result of employment in workshops;
- o identification and analysis of exemplary workshop placement/promotion programs; and
- o survey of Javits-Wagner-O'Day Act customers regarding the quality and cost of workshops' products and services.

If the $50,000 requested is provided, we would expect to undertake one or two small-scale studies early in FY 1990. For example, we might examine workshop employee characteristics. If additional resources were provided, we would, of course, be in a position to undertake additional studies or perhaps at least a portion of a more major piece of research such as that associated with conducting a cost/benefit analysis of the program.

Given the lack of previous research and the numerous issues associated with sheltered workshops and the Javits-Wagner-O'Day (JWOD) Program, it would be possible to productively devote several million dollars in support of studies related to the Committee's program. Appropriating this level of funds over one or even two or three years would not, however, be an appropriate course of action. The Committee has not previously conducted or financed research activities of this nature. In addition, it has extremely limited staff resources and numerous other responsibilities. Given these factors and the overall budget deficit situation, we do not believe it would be prudent to attempt an extensive research effort in FY 1990.

The $50,000 requested would enable us to launch what we expect to be a multi-year undertaking. In answer to your question, while we believe the $50,000 is adequate to begin this effort, we would be able to use an extra $50,000 effectively.

Question 3. The Fiscal Year 1990 request reflects a reduction in full-time compensation, from $495,000 in Fiscal Year 1989 to $476,000 in Fiscal Year 1990, and an increase in "other than full-time personnel compensation" from $13,000 in Fiscal Year 1989 to $53,000 in Fisal Year 1990. Does this funding shift represent an increase use of part-time rather than full-time personnel? If so, why is this being proposed?

Answer. The shift in funding is primarily a housekeeping matter. In September 1987, a full-time employee (GS-12 Contract Cost/Price Analyst) returned from maternity leave and began working 32 hours per week. While it is difficult to predict whether this situation will continue through Fiscal Year 1990 (or even all of FY 1989), it seemed appropriate for budget purposes, to switch the costs associated with her employment to the "other than full-time permanent" category. The category also includes resources for a part-time clerk to make deliveries, xerox, etc.

Question 4. You mention in your testimony that your Procurement List is published annually. How often do you update this Procurement List? How are those updates distributed to Procurement officials?

Answer. The Procurement List catalog is updated in January of each year. A change bulletin, which reflects

all changes to the Procurement List since January, is prepared each July. Federal agencies requesting the catalog are put on a mailing list (by use of a GSA Form 457) which is maintained by the General Services Administration, Centralized Mailing List Service. When Federal Prison Industries prints the catalog, we provide a complete printed mailing list to them for their use in distribution. The same mailing list is used for the July Change Bulletin. As part of our education and promotion effort, we are currently in the process of expanding the mailing list to include additional agencies and offices.

Question 5. How well are you currently discharging your responsibility to educate Federal officials about the Javits-Wagner-O'Day Program and to solicit their support? Do you see a need to extend outreach efforts to federal procurement officials? What more needs to be done?

Answer. As reflected in Committee Chairman Gearde's prepared statement, the Committee sees an urgent need to expand efforts to educate Federal policy and procurement officials about the Javits-Wagner-O'Day Program. With changes in Federal procurement processes and increasingly tight budgets, it is essential that Federal agencies understand the nature and the results of the Committee's program.

Early in FY 1989, the Committee initiated efforts to develop a strategy to more effectively promote the JWOD Program, and educate procurement personnel, other Federal officials and the general public about the program. The Committee's "education/promotion strategy" involves the development and implementation of various initiatives and products (e.g., videotapes and brochures introducing and explaining the program; wall posters and exhibits publicizing JWOD; awards recognizing program contributions; research studies analyzing the results and costs of the program; presentations before selected groups promoting JWOD; etc.). The principal purpose of the Committee's education/promotion strategy is to increase employment opportunities for disabled persons by attracting new customers and additional orders from workcenters employing the blind and other severely handicapped. The Committee believes that there are a significant number of Federal policy and procurement officials who are unaware or not sufficiently aware of the JWOD Program who can be reached through the Committee's education/promotion strategy. The Committee's strategy is intended to increase awareness of the program and thus generate result in additional employment for disabled persons.

Question 6. The long-range goals of the Committee are to increase employment opportunities for persons with severe disabilities and, whenever possible, to prepare them to engage in normal competitive employment.

Over the past 10 years, how manynew jobs has the program created for the severely disabled and how many people have we prepared for normal competitive employment?

Answer. Since 1978, this program has created 7,437 new full-time jobs for the severely disabled. In 1984, the Committee began collecting placement data from the two central non-profit agencies (NIB and NISH) . During that period, 6,513 blind or other severely disabled persons working as direct labor on JWOD contracts obtained competitive employment. In the case of blind workers, hundreds more are prepared for normal competitive employment but have not been able to find competitive jobs or have decided for various reasons that they prefer to remain in workshops.

Questions 7. How often do you monitor workshop performance?

Answer. Each workshop is visited by the Committee staff once every three years. Each new workshop is visited by the staff soon after they begin to produce an item or provide a service. The two central non-profit agencies' (NIB and NISH) compliance staffs also visit each workshop every three years and provide compliance information to the Committee. NIB and NISH visit new workshops immediately after an item is added to the Procurement List to provide guidance on rules, production, etc. Annual submissions which the workshops are required to submit provide an expanded amount of information on compliance issues.

Question 8. What percent of total federal contract dollars have workshop sales represented in each of the last five years?

Answer. Workshop sales represent an extremely small percentage of Federal contract dollars. Based on total contract sales data provided by the Federal Procurement Data Center, the percentages for workshop sales under the JWOD Program for each of the past five years are:

FY 1988: .17% FY 1987: .17% FY 1986: .14%
FY 1985: .15% FY 1984: .15%

Question 9. We have been aware for some time that the Committee staff has been handling an ever-increasing workload. Since 1979, the Committee maintained a staff of 12. This Subcommittee provided the Committee funds for an additional position is FY 1988. How are you using the additional position provided? If we were to provide an additional position in FY 1990, how would that extra staffer be utilized?

Answer. The additional position that was provided in FY 1988 was used to hire a Management Analyst, GM-14. Currently, this person is responsible for the

coordination and implemention of the Committee's education and promotion program. In this regard, he has represented the Committee and made presentations at several meetings and conferences. In an effort to make more agencies aware of our program, he redesigned the Procurement List and Annual Report and is overseeing their publication and distribution.

If an additional position were provided in FY 1990, it is likely that the person who filled the position would be used to work in a variety of areas relating to placing items on the Procurement List. This would include establishing prices, determining workshop capability, and assessing impact on the current or most recent contractor. It is likely that the person in this position would have some supervisory responsibilities and it is also possible that he or she would participate in on-site workshop review efforts. This position would help eliminate some of the more routine duties currently performed by the Deputy Executive Director and allow him to devote more time to substantive policy matters and the education and promotion program.

QUESTIONS SUBMITTED BY SENATOR D'AMATO

Question 1. I noted in your testimony that the number of workshops participating in the Committee's program reached a total of 345 by the end of September 1988. This is an increase of 25 over the previous year, for which I commend you. I notice, however, that while 34 workshops actually entered the program last year, nine dropped out. Can you explain why these nine workshops left the program last year?

Answer. Most of the workshops dropped out of the program because they could not afford to produce the commodity(ies) or provide the service(s) at the fair market price established by the Committee. Two dropped out because the government was not procuring sufficient amounts of the commodities they were producing under the Javits-Wagner-O'Day (JWOD) Program to support continued operations.

Question 2. I also note that of the 34 workshops entering the program last year, 33 were workshops serving the "other severely handicapped." This suggests that only one is dedicated to serving the blind. Can you explain this apparent imbalance? How does this ratio compare with that in past years?

Answer. At the outset, it is important to recognize that the blind represent a relatively small percentage of the total number of persons with severe disabilities. As a consequence, there is a much larger number of workshops serving the "other severely handicapped" than serving the "blind." It is estimated that there are approximately 150 workshops serving the blind that provide employment services and thus might have the potential to participate in the JWOD Program. This compares to 2,900 workshops serving the other severely handicapped. It is also important to recognize that blind workshops have been participating in the JWOD Program since 1938, while workshops

serving the other severely handicapped have only been eligible to participate since 1971.

At the present time, 78 workshops serving the blind are participating in the program; this represents 52% of those that might have the potential to participate. Conversely, 278 workshops serving the other severely handicapped are participating. This represents just under 10% of those that might be capable of involvement. Obviously, the potential for further additions is substantially greater for workshops serving the other severely handicapped than for workshops serving the blind.

Since 1971, when workshops serving the other severely handicapped became eligible, the number of blind workshops participating in the program has increased by 21, as compared to an increase of 278 workshops serving the other severely handicapped. This apparent imbalance, which has been consistent throughout the 1971-1988 period and is expected to continue, is clearly a function of the program's history and the large number of workshops serving persons with severe disabilities that have the capability to participate in the JWOD Program.

Question 3. In requesting an increase of $75,000 in FY 1990, the Committee has stated its intention to expand and strengthen the Javits-Wagner-O'Day program. This would certainly include expanding the number of workshops in the program. How many new workshops do you expect to add in FY 1990?

Answer. Based on goals established by the National Industries for the Blind and the National Industries for the Severely Handicapped, we expect that an additional 47 workshops will begin participating in the JWOD Program during FY 1990.

DEPARTMENT OF THE TREASURY

U.S. Customs Service

STATEMENT OF WILLIAM VON RAAB, COMMISSIONER

ACCOMPANIED BY:

WILLIAM ROSENBLATT, ASSISTANT COMMISSIONER, ENFORCEMENT

D. LYNN GORDON, ASSISTANT COMMISSIONER, COMMERCIAL OPERATIONS

SAMUEL H. BANKS, ASSISTANT COMMISSIONER, INSPECTION AND CONTROL

WILLIAM F. RILEY, COMPTROLLER

DAVID M. NUMMY, DEPUTY ASSISTANT SECRETARY FOR DEPARTMENTAL FINANCE AND MANAGEMENT, DEPARTMENT OF THE TREASURY

INTRODUCTION OF WITNESSES

Senator DeConcini. We are now going to hear from the U.S. Customs Service. We are very pleased to have with us this morning the Commissioner of U.S. Customs, Mr. William von Raab; Mr. William Rosenblatt, Assistant Commissioner for Enforcement; Ms. D. Lynn Gordon, Assistant Commissioner for Commercial Operations; Mr. Samuel L. Banks, Assistant Commissioner for Inspection and Control; Mr. William Riley, Comptroller; and Mr. David M. Nummy, Deputy Assistant Secretary for Departmental Finance and Management at the Treasury Department.

SENATOR DECONCINI'S OPENING REMARKS

We welcome you all. Your full statements will be put in the record and I would ask that you summarize those. However, Commissioner von Raab, before we begin, I would like to commend you and the Customs Service for the tremendous job that you and your staff have performed.

Are we biased? Yes; I guess so, because we have worked closely. We have had our disagreements, but we have also been able to forge some very important agreements on programs. In the area of drug enforcement, your aggressive style has placed the Customs Service, in my opinion, at the forefront of the law enforcement community.

Your pursuit of state-of-the-art technology has enabled Customs to counter the sophisticated techniques used by international drug smugglers. Your candor has provided a refreshing departure from the vagueness and delicate treatment of the criminal behavior of source countries. And, to me, that is one of the bright spots of the past administration. As far as I am concerned, I hope you stay as the Commissioner. If I could make that appointment, that is what I would do.

Customs' outreach to State and local governments has also flourished under your command. Initiatives like the Blue Lightning Strike Force and Operation Alliance are unprecedented examples of successful intergovernmental cooperation efforts. These initiatives demonstrate Customs' willingness to share information and assistance.

I am pleased that over the years you have demonstrated, as Admiral Yost of the Coast Guard has, that the objective and mission of drug enforcement far exceeds the competition and jurisdictional differences that different agencies have had. I know you have had your differences with Admiral Yost, as I have and others, too, but you have forged a good relationship there and I compliment you for that.

Your prioritization of asset sharing under the State and local program illustrates the Federal agencies' ability to share valuable resources as well. You have made a substantial contribution to drug enforcement, indeed.

In the burgeoning arena of international trade, you have constantly sought to facilitate trade without compromising Customs clearance standards. Under your able direction, Customs continues to streamline its process in order to examine less merchandise and fewer passengers with greater results. That is a hard task and a hard ball to balance.

The improvements made in your intelligence-gathering, information assimilation, and widespread automation efforts enable you to increase Customs' sophistication at selective targeting of high-risk importers and passengers.

And I must say, your sensitivity to the business community on the border is greatly appreciated. These business people, with whom we work in our border States all of the time, understand that your mission is to keep contraband from coming in and to collect the necessary duties. They also appreciate the willingness of your people to meet with them, listen to some of their complaints, and attempt to help them without jeopardizing your major mission.

You have successfully juggled these very demanding missions and have managed to strike an effective and delicate balance. So once again, Commissioner von Raab, your legacy, I think, will live for a long time with Customs, and hopefully you will live here with it for a long time to come.

I am very pleased to have had the opportunity during my service as ranking member with Senator Abdnor when he chaired this subcommittee, and now as chairman for the past couple of years, to have had the pleasure to work with you.

INTRODUCTION OF SENATOR KERREY

I would yield to Senator Kerrey if he has any opening statement.

Senator KERREY. Only to say that I am relatively new to Customs—we have all of two employees in Nebraska. Our principal concern, in addition to drug enforcement—which is obviously, a high priority—in addition to that, I will over the course of time be communicating with you some concerns that we have with the Canadian Free Trade Agreement and the impact upon commercial interests in Nebraska.

Other than that, Senator, I have no opening remarks.

Senator DECONCINI. Thank you, Senator Kerrey.

I would like to welcome Senator D'Amato, who has been an active member of this subcommittee and knows so well the importance of Customs in law enforcement and trade, from the great State of New York. And I will yield to him for any opening statement.

You just missed the tremendous applause that I gave to Mr. von Raab.

Mr. VON RAAB. Do it again, please. [Laughter.]

Senator DECONCINI. I feel sorry for his staff and his family now when he has to go home.

SENATOR D'AMATO'S INTRODUCTORY REMARKS

Senator D'AMATO. Well, Mr. Chairman, I join with you in acknowledging the tremendous dedication that Commissioner von Raab has brought to the Customs Service. I think he has helped energize not only the Service, but a great deal more in the area of dealing with the flood of drugs that pour into this country.

And he probably, Mr. Chairman, has created for himself not only a loyal cadre because there are many who feel very strongly that what he has articulated and attempted to do has been very important for this Nation; but in so doing, he has stepped on a lot of toes. There is no doubt about that.

He has rocked the boat because he has had the courage to come forward and to fight for the resources necessary to attempt to make a difference, as have you, Mr. Chairman.

Senator DECONCINI. As have you.

Senator D'AMATO. When you do that, there are those who would like to sweep the problem under the rug and continue their little game, give their little statistics, talk about how they are winning a war when we haven't really fully engaged the enemy at all levels—interdiction, law enforcement, education, prevention, sufficient prisons, the whole totality as you and I have worked on it over the years.

And your leadership in forging the comprehensive drug bill gave us some hope in 1986 and a little bit more in the way of direction in 1988. You know, that is not universally respected.

As a matter of fact, there are some deep within the bowels of the institution of government at all levels who take great offense at it. And I can't help but think it brought about one of the most inaccurate, devastating, terrible portrayals of the Customs Service on network television this week; of what it has been doing; and, Mr. Chairman, aimed at yourself, I think, in the most vicious, unproductive, and untruthful manner.

COCAINE SEIZED BY AIR PROGRAM

I say that for the record because when I hear things that the Customs air patrol has not been successful, and I know and you know—and I would like to, with your indulgence, maybe ask the Commissioner. Commissioner, let me ask you, in 1988 how much cocaine was seized by the air program for fiscal year 1988?

Mr. ROSENBLATT. Approximately 4,900 pounds, Senator, and I might add that is both direct and in accordance with enforcement support.

Senator D'AMATO. How many?

Mr. ROSENBLATT. 49,000; I am sorry, 49,000 pounds.

Senator D'AMATO. 49,000 pounds of cocaine were seized.

Mr. ROSENBLATT. 49,000, and that is through direct interdictions as well as through support to our land forces that need air support in taking down loads that come across the border as well.

Senator D'AMATO. And so when you see this incredible piece of propaganda, and I say news propaganda, which so distorts and is so inaccurate and says that you haven't seized any, you have, in fact, seized 49,000 pounds, and that doesn't go into how much has been precluded from coming in.

By the way, when they talk about aerostats and they say nobody comes in by air anymore, that testifies to the effectiveness of the air program, doesn't it? I mean, where you had had hundreds and hundreds of illegal flights, flights not identified, flights in many cases that we suspect were carrying drugs, and now there are no flights to be measured that come in—I mean, that testifies to the effectiveness because you are pushing them out of the area, is that correct?

Mr. VON RAAB. Well, it is similar to saying that the nuclear deterrent has not done us any good for the past 20 years. I mean, the fact of the matter is if it weren't there, the Russians would have blown us out of the water. If we didn't have an air program, they would be flying in every 10 seconds.

PREPARED STATEMENT

Senator D'AMATO. Well, there are some other questions, Mr. Chairman, that I would like to get into, but at this time I would ask that I be permitted to submit my opening remarks as read in their entirety.

Senator DECONCINI. Without objection, it will appear in the record.

[The statement follows:]

STATEMENT OF SENATOR D'AMATO

Good morning, Mr. Chairman. I look forward to reviewing with you and the other members of this subcommittee the budget request for the Customs Service.

Today's hearing is an especially important one. Increasingly, it appears that the Customs Service may be at one of the most significant crossroads in its history. The Defense Department is developing a new plan that will very much affect what the Customs Service can do to fight drug smuggling. The Coast Guard is becoming more involved in drug interdiction. Other agencies are seeking to expand their turf.

Many of these developments can be very helpful. But the bothersome question is: What will happen to the Customs Service?

I want to make it very clear that I favor a strong Customs Service role in combating drug smuggling. The Customs Service was there when no one else wanted the job. I am particularly concerned that the Customs Service Air Interdiction Program not be undermined.

The Defense Department has to accept some of the responsibility for the present confusion. It was supposed to submit a report to the Congress by January 1 on its plans to integrate Customs and other agencies' surveillance and communications assets to combat drug smuggling. It has still not done so.

To some extent, the Defense Department plan seems to duplicate the activities of the Customs command, control, communications and intelligence center in River-

side, California and the one scheduled to open this summer in Richmond Heights, Florida.

Before this plan is implemented, Congress will have to review it. I also believe the new drug czar should have the opportunity to review it.

I am also very concerned by what I see as a $154 million budget shortfall in the Customs Service Air Interdiction Program.

It appears that 5 Customs priority projects needed to complete the Customs air interdiction strategy are not funded, including:

1—P–3 Airborne Early Warning (AEW) radar plane (#3) [1]	$30,500,000
10—Citation Interceptor/Tracker Planes	65,000,000
149—Personnel (to raise level from 811 to 960)	5,000,000
1—P–3 AEW (#4) [1]	30,500,000
1—Aerostat (originally scheduled for Bahamas; may be rescheduled for Southwest Border)	23,000,000
Total	154,000,000

[1] The $30.5 million procurement cost for each P–3 AEW assumes concurrent modification and delivery. If AEW's #3 and #4 are separate procurements, an average increase of $5M per AEW can be expected.

There are many other very important issues we must address this year, including the need for: more secure communications among our law enforcement agencies; more resources to combat money laundering; more innovative techniques to respond to new forms of smuggling involving containers and other methods; and a better use of intelligence and better analysis of the information we collect every day.

I look forward to working on all of these matters with you and the other members of the committee and on all the other issues facing the Customs Service. I look forward to hearing from today's witnesses.

Senator D'AMATO. I join you in commending Mr. von Raab and his dedicated cadre that he has working with him, and that support. They have absolutely done a terrific job against the tide and against the institutional mentality in many, many cases, unfortunately, that exist. We owe you a great debt of gratitude because you have been fearless where others have withdrawn from the battlefield.

And to my dear friend, Senator DeConcini, let me say to you, don't let the bastards get you down.

Senator DECONCINI. I have dealt with them for years.

Mr. von Raab, please proceed with your prepared statement.

COMMISSIONER VON RAAB'S OPENING REMARKS

Mr. VON RAAB. Thank you for those very kind statements, Mr. Chairman, Senator D'Amato, and Senator Kerrey. I was a little nervous when I came in here. I saw this device hanging from the ceiling. I wasn't quite sure whether that was a hangman's noose or a hoop through which we were going to be required to jump. [Laughter.]

It is our privilege and pleasure to make ourselves available to answer all of your questions on our budget submission for fiscal year 1990. I would ask you to accept a rather lengthy but more complete statement for the record.

Senator DECONCINI. Without objection, it will appear in the record.

Mr. VON RAAB. I would just like to address——

Senator DOMENICI. Excuse me. You didn't have to stop.

Mr. VON RAAB. I don't want you to miss anything. [Laughter.]

Senator DECONCINI. Let me interrupt you for a minute, Commissioner. I would welcome my ranking member, who has been a real

partner in this subcommittee, not just on Customs issues but on everything that this subcommittee is involved in, and we are pleased to have him with us today.

Pete, you just missed great statements by myself and Senator D'Amato. It seems to be Italian-American day here for Customs. Do you want to make any opening statement before we hear from the Commissioner?

Senator DOMENICI. Mr. Chairman, even though I didn't hear your statements, I am convinced that you have handled it adequately, so I have nothing to say. Thank you. I am glad to be here.

Senator DECONCINI. Proceed, Commissioner.

Mr. VON RAAB. I would like to touch on just a few of the important aspects of some of Customs' accomplishments. Customs is an agency that is not only the agency that could, but it is the agency that would and the agency that has. It is an agency that is presented with a mission impossible, and more than typically it comes up with a mission accomplished.

Its accomplishments, as I see them, are many, but there are a few areas which I would like to highlight. First, I think it is very important to discuss Customs' role in the fight against drugs, and it plays two major roles there. One is in dealing with money laundering and the other is interdiction.

MONEY LAUNDERING

The Customs Service has been responsible for developing the techniques of money laundering enforcement and, simply put, over a period of 8 years the situation with respect to money laundering has gone from one in which money was laundered publicly on the streets into a situation in which, as a result of Federal pressure, largely the Customs Service joined by the Internal Revenue Service, we have driven them underground into attempting to use extremely risky and highly sophisticated techniques to hide the source of their ill-gotten gains.

There are many, many tales to tell. Certainly, one of the most important ones is the recent case that Customs had of the Bank of Commerce and Credit International, which showed the lengths to which we have forced the crooks to go in order to avoid our efforts.

Another way, of course, to measure this, is to look at the seizures. Just in the past year, seizures under our money laundering enforcement efforts have gone up by 61 percent, leading us to have seized over $150 million just last year in that program alone.

AIR INTERDICTION

One of the more public responsibilities of the Customs Service is interdiction, and I think it is important to clear the record. I continue to state that we are unfortunately losing the war against drugs, but it is by no means because of a failure of our interdiction efforts. If anything, the interdiction efforts of the United States Coast Guard and the Customs Service are a bright point in the war against drugs.

Seven or eight years ago, it was easy as could be to take any airplane and fly directly into the United States across any one of its

borders. I think you would be lucky if anyone even noticed that it took place, no less took any action with respect to it.

What has happened in the air is that whereas 8 years ago our borders were completely open and unprotected, we now have begun to draw a net around the country to the degree that with respect to certain parts of the country—notably, the Southeast, particularly the east coast of Florida—airplanes do not even attempt to fly into the United States.

There is no greater example of success than a program in which the smugglers don't even try to do it anymore. Smugglers no longer fly into the United States. I am happy to point out for Senator D'Amato that the famous New York Express, which used to literally be a shuttle service going straight up the Atlantic and going into the New York-New Jersey area, is now also a thing of the past.

Don't get me wrong. There is still an occasional cowboy who is willing to risk his life, his limbs, and his family finances to try to do any of these things. But as a practical matter, those efforts are gone. Those individuals have been forced to drop all of their loads of dope into the Bahamas and they have been forced now to fly into Mexico, where unfortunately they are often provided safe havens. Those planes are no longer seen flying into the United States.

Why are they not doing it? They are not doing it simply because we now have a detection network of aerostats and we have good planes which we can fly up against their planes, should they try to come in. This is an incredible success, not well known, because the Customs Service in many respects is not well known.

This success is spreading to other parts of the country. We are taking the lessons that we have learned in the Southeast and moving them initially to the Southwest, where we are putting up a similar network. And by 1992, it is our prediction that air smuggling, as a practical matter, will cease in the United States because it just won't be worth the risk to the air smuggler to fly into the United States.

I did not say that smuggling would cease. The same air smugglers will be landing in Mexico. They will be dropping their loads in the sea and we will be fighting them on the sea and, more particularly, we will be fighting them in commercial cargo.

But our investment in our air program, in my opinion, is probably one of the great accomplishments that Customs can show, and certainly it is an area in which we owe an enormous debt of gratitude to this committee, the Members of the Senate and of the House, and to the administration for having supported an essential program.

MARINE INTERDICTION

We are starting to see similar success on the sea. How do you measure success on the sea? Well, one, you measure it by the Coast Guard's success in virtually eliminating an enormous amount of the marijuana trafficking that is taking place.

So what has happened? Smugglers are shifting to higher payoff cocaine and marijuana is being grown in the United States. Nevertheless, that shouldn't detract from the fact that the Coast Guard

has really done a good job in eliminating the freighter marijuana trafficking in this country.

What is also happening is that as a result of our cooperation with some of the enforcement agencies in the Bahamas and the freedom with which we can operate, we are pushing the staging areas for marine smuggling farther and farther from the coast of the United States.

What that means is that no longer is it convenient to a smuggler to use a small, fast boat to enter the United States from Bimini or from West End. They are now forced to use larger, more costly, more risky operations running from farther and farther away from our coast.

That is what it means to be successful in interdiction. You raise the risk; you push them to the ragged edge in which they are making more mistakes. It is costing them more money. We still have serious problems. We can't give up. We have to work harder and harder and keep the pressure on.

COMMERCIAL CARGO ENFORCEMENT

On land, we probably have our most problematic issue because there they have taken to mixing their contraband in with normal commercial cargo. There is no question that by the mid-1990's the game will be in commercial cargo.

The reason it will be there is that we will have been successful in the air and on the sea, and the battle will then be to sort out illegitimate shipments from legitimate shipments in commercial cargo.

We are prepared for that. We have developed tremendous expertise with our inspectors. We have put a great number of additional inspectors, for example, on the Southwest border.

We also have established and are managing an enormous data base from which we are now making very substantial seizures. No longer are our Customs inspectors just using a sort of sixth sense in order to find something in cargo, which remains a very important aspect of it, but now they are aided by a large and very easily managed data base that gives them advice, so that they may still be looking for a needle in a haystack, but as our inspectors say, we at least now know which haystack to look into, because up to now we have been dealing with millions of haystacks. It is still a tough job, but the resources and the sophistication with which we are working are enormously improved.

At the same time, as the chairman indicated, we have made a tremendous effort, and I think we have been successful, in relieving the traveling public and the shipping public of some of the old-fashioned burdens of going through Customs.

It is always a pleasure to me to hear someone that goes through Kennedy Airport who tells me not that he had a terrible time with the Customs inspector, but that he was happy to see a Customs inspector, that the Customs inspector treated him like a very respectable, upstanding citizen, and helped him through Customs.

And that is absolutely right because what we are trying to do is sort out the bad guys from the good guys, give the bad guys as tough a time as we can and send the good guys on their way. That

is our approach. That is how we have been working in inspection and control and that is how we intend to work with commercial cargo.

COMMERCIAL PROCESSING

Last, but not the least important, are our efforts in commercial processing. As you well know, we receive over a quarter of a trillion dollars' worth of goods into this country each year, reflected by almost ten million formal entries, each of which contains an enormous amount of data, from which we collected $17.5 billion last year.

How did we do this 8 years ago? We did it almost with quill pens. I suppose we used ballpoint pens and lots of carbon paper. Today, I am happy to report that 70 percent of all that data that is received by the Customs Service is received electronically, which means that not only has the burden on the shipper been reduced, but his costs have been reduced. Customs is now able to manage this in a modern environment.

Customs has gone from becoming an embarrassment, a 200-year-old creaky operation in the commercial area, to being the absolutely foremost leader in terms of automating its commercial activities.

PREPARED STATEMENT

I am extremely proud of the efforts that the men and women of the Customs Service have shown over the past few years. I am delighted at every opportunity to give them a challenge. They have met each of these; they have succeeded. And I am proud and eager to answer your questions with respect to our efforts.

Thank you very much.

[The statement follows:]

STATEMENT OF WILLIAM VON RAAB

Mr. Chairman and members of the subcommittee, I am pleased to come before you today to discuss the fiscal year 1990 Customs budget request and how Customs intends to make use of its resources.

As you are aware, the President's fiscal year 1990 budget proposes freezing, at fiscal year 1989 levels, the aggregate spending of domestic programs not directly associated with one of his five broad initiatives. Although most of our programs are included in this category, the President has emphasized that the freeze is flexible, allowing some programs to increase while others are reduced.

We expect that final decisions about whether to increase or decrease specific programs within this freeze category will be determined through top level deliberations and negotiations between the administration and Congress.

Today, we are prepared to discuss a number of initiatives, program reforms and/or reductions to 1989 spending levels that were presented in the budget submitted in January.

It should be emphasized that the President has not proposed that funds be appropriated for these particular adjustments. Therefore, our discussion must be viewed as providing the committee with information on "candidate" areas which could be increased or decreased within the context of the overall freeze.

For the Drug Enforcement Program, a Bush priority, we propose a level of $442 million to patrol our borders vigorously and to interdict drugs in transit to the United States.

The drug enforcement request is slightly lower than fiscal year 1989 but in fact includes substantial programmatic increases in several key areas, including containerized cargo inspection, money laundering activities, and enforcement systems. The reasons for the decline are several: 1) significant one-time costs of fiscal year 1989's drug bill that need not recur in fiscal year 1990; 2) the transfer of responsibility for

seeking the organized crime drug enforcement (OCDE) appropriation to the Department of Justice; 3) the transfer of Customs E-2C's to the Coast Guard; and 4) the transfer of internal audit resources to the statutory inspector general. These reductions do not reflect a reduction in the Government's war on drugs. In the case of OCDE, Customs will continue to perform this effort on a reimbursable basis.

FISCAL YEAR 1990 ENHANCEMENTS

The $442 million requested for fiscal year 1990 includes $36 million of enhancements for three programs in fiscal year 1990—550 FTE and $28 million for the containerized cargo enforcement initiative, $5 million for the Treasury Enforcement Communications System II (TECS II), and $3 million for money laundering. These initiatives will improve the results of Customs drug and other enforcement efforts.

The requested resources for cargo enforcement will allow a significantly increased level of intensive examinations of cargo containers for illicit drugs. Containerized enforcement is a key element in the drug enforcement strategy. Drug traffickers use commercial cargo containers to smuggle huge volumes of illicit narcotics, one shipment at a time, into the United States. This enhancement will improve identification of target shipments and improve the enforcement examination process by providing additional inspector and canine enforcement officer (CEO) positions and equipment.

The request for TECS II will provide for improved intelligence and investigative support to Customs, Treasury and other Federal law enforcement agencies dealing with border protection, narcotics interdiction, and terrorism. This enhancement will allow Customs to install 300 additional terminals, greatly increasing access to the system in the field, thus enhancing our enforcement capabilities.

The administration requests an additional $3 million in fiscal year 1990 to augment money laundering initiatives. Customs success in domestic money laundering investigations has led to the expansion of the financial enforcement program to encompass greater cooperation with foreign counterparts and has broadened our focus on the international flow of illegal funds. This approach has already produced results, as witnessed in the successes of Customs undercover money laundering investigations such as Operation C-Chase and Operation Flying Kite.

MAJOR ACCOMPLISHMENTS

In its capacity as a collection agency under the Tariff Act of 1930, the Customs Service collected $17.3 billion in fiscal year 1988. This total is projected to reach $19.1 billion in fiscal year 1990.

Customs cleared 348,394,000 persons and processed 8,878,000 formal merchandise entries in fiscal year 1988, up 10.7 percent over the prior year.

Among other things, Customs also seized 139,958 pounds of cocaine, a 59 percent increase over the prior year, 1,353 pounds of heroin, a 112 percent increase over the prior year, 918,954 pounds of marijuana, and 94,675 pounds of hashish.

CUSTOMS BICENTENNIAL

The Customs Service began celebrating its bicentennial this past summer. The original Customs districts and ports of entry were established by the Fifth Act of Congress on July 31, 1789, in response to the urgent need for revenue collection under the Tariff Act of July 4, 1789.

Even though Customs mission has remained the same over the past 200 years, changes in the size and makeup of the international trade community have resulted in a significant expansion of the U.S. Customs Service and its responsibilities. Customs dual responsibilities of enforcement (including drug interdiction, child pornography and commercial fraud) and commercial operations (including regulating the flow of merchandise across our borders and the collection of duties and other charges) have become increasingly complex.

AIR PROGRAM

Customs is strengthening its fixed air smuggling detection net in the southeast by installing an aerostat at Georgetown, Bahamas, to augment the aerostat already operating at Grand Bahama Island. In accordance with an agreement between Coast Guard and Customs, control of certain Southeastern detection resources began to be turned over to the U.S. Coast Guard in fiscal year 1988 and will continue in fiscal year 1989.

Along the Southwest border, a fixed air smuggling detection net is being established through deployment of radar equipped aerostats. Once installed, these aeros-

tats will provide a low level aircraft radar detection capability that has long been needed. Through deployment of long-range surveillance aircraft, mobile detection capability will complement our land based aerostats. The operation of command, control, communications and intelligence (C3I) centers in Miami, Florida and Riverside, California, and the National Aviation Center in Oklahoma City, Oklahoma, will integrate these detection resources and provide for tactical coordination of air interdictions. Customs will continue to coordinate its intelligence efforts with the Drug Enforcement Administration (DEA) so as to receive the benefit of DEA's unique resources.

Aircraft currently operated by Customs include high speed jet interceptors equipped with radar and infrared detection sensors, long-range trackers, high speed helicopters, single and multi-engine support aircraft, and P-3A and P-3B airborne detection platforms. Aircraft are obtained through purchase, lease, or military loan and modified to meet Customs specifications. In addition, by the end of fiscal year 1989, Customs expects delivery of a second P3-AEW aircraft, ten Cessna Citations, and seven Nomad aircraft. I point out at this juncture that the administration is proposing the transfer of our two E-2C's to the Coast Guard at the beginning of fiscal year 1990. The basis of this transfer is the coming on board of two P-3 AEW aircraft.

STATE, LOCAL, FEDERAL COOPERATION

Customs experience has shown that the most effective use of Federal interdiction resources is in joint efforts with State and local law enforcement agencies. Toward this end, Customs has undertaken several ongoing joint initiatives with State and local enforcement agencies. The Blue Lightning Strike Force in the Southeastern United States, initiated in early 1985, and the "Alliance" plan, encompassing Operation Blue Fire for the southwest border, are proving that successful results can be obtained from a cooperative enforcement effort. The JFK narcotics smuggling unit in New York, a joint effort between Customs and the Drug Enforcement Administration, continues to make progress against conspiracies to smuggle narcotics through the New York and New Jersey ports. Similar joint efforts are being conducted in San Diego.

BE ALERT PROGRAM

We have embarked on a program to enlist citizens in our drug interdiction efforts. The Civil Air Patrol, which is an association of volunteer pilots, has come forward to fly drug lookout missions for us off the coasts of many Southern States.

Customs "be alert" hot line operates internationally. In addition to the United States, it is available in Bermuda, Jamaica, and the Bahamas.

MARINE PROGRAM

The Customs Marine Program covers the sea approaches to the Nation's borders as part of the marine smuggling problem. Customs is improving its marine interdiction strategy through expanded use of its air detection assets and improved intelligence. In addition to the interdiction function, marine assets are being utilized as investigative tools to enable further infiltration into narcotics smuggling organizations and for intelligence gathering. These improvements will result in increasing the risk and costs to smugglers, while reducing the level of marine smuggling by pleasure craft and fishing vessels.

The Blue Lightning Operations Center (BLOC) is currently the nerve center for marine interdiction efforts in the Atlantic Southeast. State and local law enforcement groups have access to BLOC and lend marine resources and manpower to operations controlled by the center. BLOC collects and utilizes tactical information from Customs vessels, aerostats, and Customs aircraft and then directs the available marine resources to the interdiction site in order to effect a law enforcement action. The result has been a significant increase in the identification, investigation and prosecution of major narcotics smugglers.

Customs will use Nomad aircraft outfitted with the latest 360 degree marine target detection radar and infrared equipment to provide enhanced detection, sorting, and tracking capabilities in reacting to a changing threat.

In order to better maintain its vessel fleet, Customs has awarded a national marine contract which has significantly enhanced the readiness and performance of the Customs fleet. All of the various types of Customs vessels are identified in a vessel reporting system by location, make, size, age, equipment, and engine type. Maintenance standards and procedures have been developed.

INTELLIGENCE

Intelligence plays a key role in enforcement operations and management decisions in the areas of narcotics enforcement, critical technology, commercial fraud and financial analysis. Customs intelligence interests and collection requirements have been communicated to the intelligence community, other Federal and State law enforcement agencies, and all Customs elements. These collection requirements have increased the flow of pertinent information from the intelligence community which is then processed and disseminated to frontline Customs agents and inspectors worldwide. Increased emphasis has been placed on the collection, analysis, and dissemination of intelligence associated with violations of U.S. sanctions and embargoes.

Customs has developed an artificial intelligence capability, whereby suspicious currency movement is targeted by computer, based on "expert system" rules. The system thus far has targeted the financial activities of over 400 individuals or companies, totalling nearly $500 million. This capability will soon be expanded to other areas of Customs interest.

FINANCIAL LAW ENFORCEMENT PROGRAM

Customs Financial Enforcement Program focuses on the illegal money flow and proceeds of major criminal enterprises. The objective is to interrupt that flow, seize the assets of the enterprise, and follow to successful prosecution those individuals who direct and control the organization.

During fiscal year 1988, Customs financial enforcement programs produced a significant increase over fiscal year 1987 in financial seizures. In 1987, Customs seized $102.4 million in currency and monetary instruments, compared to $164.8 million in 1988, an increase of 61 percent.

The currency investigations and financial intelligence branches of the Office of Enforcement maintain and act as the national clearinghouse for the financial data base (FDB). The FDB contains information gathered under the Bank Secrecy Act and has recently been refined with the utilization of artificial intelligence software which has improved Customs target selection processes. Customs work with Department of Treasury staff has resulted in new Bank Secrecy Act dissemination guidelines which facilitate providing FDB information to State, local, and foreign law enforcement agencies.

EXPORT ENFORCEMENT

Customs Exodus Program consists of a major enforcement effort directed against violations of the Arms Export Control Act and the Export Administration Act as amended in 1985. These violations typically involve the illegal export of sensitive technologies, critical items of equipment, arms, munitions, weapons systems, and computer systems from the U.S. to prohibited foreign destinations. The scope of the exodus effort has also been expanded to include enforcement of sanctions and embargoes against Nicaragua, Libya, Iran, Cuba, South Africa, North Vietnam, Cambodia, and Syria.

During fiscal year 1988 and fiscal year 1989, the Exodus Program has moved into increasingly sophisticated areas involving missile technology, nuclear technology, the strategic defense initiative, and advanced weapons systems. Experience over the past eight years has solidly demonstrated the existence of a broad network of international front companies, multinational conspiracies, and complex diversion schemes that pose a major and growing threat to national security.

From the inception of the program in October 1981 through September 1988 there have been 6,987 seizures of merchandise valued in excess of $511 million, 1,070 arrests, and 688 convictions for export violations.

Interdiction, investigation, and international cooperation are the three basic elements of the Export Enforcement Program. These elements provide a highly visible deterrent and have a valuable compliance impact on domestic industries and exporters. We have adopted a proactive investigative approach to detect and disrupt illegal criminal conspiracies before they can damage national security.

In conjunction with the Drug Enforcement Administration, we are working to identify shipments and exporters of precursor chemicals being diverted to the processing of illegal drugs. Another recent initiative involves the issuance of new regulations on the export of used cars in an effort to interdict stolen vehicles being exported.

A variety of program improvements are planned for fiscal year 1990 to improve the overall effectiveness of the program: expanded and more sophisticated undercov-

er operations; increased use of training seminars to increase the technical proficiency of the field agent force; increased foreign cooperation and participation in the coordinating community of multilateral export controls; and expanded assistance to foreign governments in the development of their own export enforcement programs.

CHILD PORNOGRAPHY

Customs is continuing its efforts to stop the importation of pornography which exploits the use of children. We have established special teams throughout the country to inspect suspect mail and arrange controlled deliveries whenever possible. Customs is expanding its intelligence data base of suspect countries, companies, and importers. This system is being used by field personnel for analytical and investigative leads. Also, Customs has entered into agreements with other Federal agencies to share intelligence and information for investigative purposes, and Customs introduced the child pornography tipline (1-800-843-5678) operating in conjunction with the National Center for Missing & Exploited Children.

INSPECTION AND CONTROL

Customs inspectors are stationed at our air, land, and seaports to process persons, cargo, and carriers entering the United States and to enforce our trade laws.

Customs inspectors have maintained enforcement effectiveness by intensive selective inspections, made possible by the introduction of computer-assisted entry processing and reduced paperwork. Customs operational analysis staff has the responsibility for the development and maintenance of local and national ACS selectivity enforcement criteria. The results of selectivity have been improved enforcement, more efficient use of resources, and better facilitation for passengers and cargo. Expanded use of automated systems, selectivity, and innovative techniques have been substituted for traditional labor intensive processes, improving overall efficiency while handling increased workloads.

Enforcement and selectivity efforts include cooperative efforts with foreign customs services which provide pre-arrival information of passengers from high-risk countries; increased emphasis on high-risk private aircraft and small vessels; improved canine enforcement; and the testing of new examination/enforcement systems for cargo control.

The strategy of using contraband enforcement teams [CET] to conduct more intensive narcotics examinations of high-risk passengers and cargo has been successful. In fiscal year 1988, CET accounted for 32 percent of cocaine seized by Customs.

Customs has installed automated passport readers at every major U.S. airport to streamline TECS II enforcement computer checks and thus, the entire inspection process. Customs is working with airlines and airports to further capitalize on the latest technology to optically read international travel documents, and continues to work with the Immigration and Naturalization Service [INS] to consolidate inspection functions in a streamlined airport processing scheme. All of these efforts will result in improved passenger processing and will maximize the law enforcement capabilities of both INS and Customs.

CANINE ENFORCEMENT PROGRAM

Customs Canine Enforcement Program is integrated in the overall Customs enforcement strategy in two areas: drug detection and interagency/international assistance. Canine program resources are primarily aimed at interdicting narcotics; however, our training center in Front Royal, Virginia, assists the law enforcement community and foreign governments by training canine officers and developing similar programs. This cooperative effort greatly enhances State and local narcotics task forces and contributes significantly to the international seizure of drugs destined for the United States. We have recently developed and initiated a canine pilot project to use specially trained dogs such as cocker spaniels to detect narcotics in international airport passenger processing areas.

NEW INITIATIVES

Recently Customs has pursued two new initiatives to improve enforcement efforts—Operation Winternight and innovative carrier programs.

Operation Winternight is a joint Customs/DEA program whereby DEA field offices in Central and South America are reporting narcotics intelligence into El Paso Intelligence Center which is then incorporated into the Customs automated commercial system [ACS] selectivity module. Winternight began in March 1988, and has resulted in the development of over 3,400 narcotics criteria being placed within the

ACS selectivity module. The development of this criteria has resulted in the seizure of 11,288 pounds of cocaine since its inception.

With the recent advent of the Customs automated manifest module [AMS] within the ACS system, Customs and DEA feel that the Winternight Program can be greatly enhanced to target high-risk narcotics shipments in commercial cargo. In addition, DEA and Customs will be looking to expand the Winternight Program into Southeast Asia.

In efforts to establish a drug free workplace for commercial carriers and prevent narcotics from being placed on board their conveyances or introduced into commercial cargo, Customs is in the process of increasing the standards in super carrier initiative agreements. The agreements will be tailored to each carrier and location depending on risk levels and must be certified by the individual carrier as being fully implemented. Customs will perform selective foreign surveys; if the carrier complies with its agreement, potential penalty liability in cases of narcotics smuggling will be reduced.

Under the congressionally mandated 2-year test at three airports (Los Angeles, Miami, and Dallas-Ft. Worth), entitled the Air Carrier Smuggling Prevention Program, Customs will emphasize requirements that carriers must implement at foreign points of origin to prevent narcotics smuggling. Customs personnel will continue to inspect high-risk arrivals; carrier personnel will be allowed to search those flights Customs chooses not to inspect and will conduct quantity verifications of cargo.

AIRPORT SECURITY PROGRAM

In 1986, in response to our concern about the threat of a terrorist incident occurring at a United States airport, we established the Customs airport security program. The purpose of this program is to identify those individuals who require unescorted access to Customs processing areas and to limit that access to those individuals who do not appear to pose a threat to the area. Since then, we have conducted criminal history checks on over 175,000 employees whose duties require them to have access to the Customs processing areas at airports. We have identified and denied access to 1,683 individuals who pose a threat to the area and arrested 172 people based on information uncovered, thus increasing security. In addition, we provide ongoing training to our personnel on local contingency plans and the identification and interdiction of terrorists attempting to enter the United States. We will continue to ensure that Customs areas at airports are "secure" areas.

MAIL ENTRY PROCESSING

A test to automate Customs mail entry processing has been conducted and found to be very successful. This system, if implemented at the five major mail branches, could increase revenue collections by $5 million during the first year of operation. A joint operation with the Postal Service has established a new enforcement policy for parcel mail. This will target high-risk and source country parcels encountered by postal officials, who will present them to Customs. Future plans include a joint antidrug campaign and an outbound currency project in the mail system.

U.S.-MEXICO COOPERATIVE EFFORTS

Meetings and discussions have taken place with the Border Trade Alliance [BTA], an alliance of U.S.-Mexican border organizations. Working with the BTA, U.S. Customs opened communications with Mexico Customs on commercial issues to work toward cooperative efforts to solve some of the physical bottlenecks that impede commercial cargo movement between our two nations. Very tangible results have been attained: coordination of hours of service for commercial cargo processing and expansion of U.S. Customs work shifts to effect an increase in regular hours of service; a commitment from Mexico Customs to limit the release of shipments not ready for U.S. Customs processing; use of the U.S. import lots as parking lots; and Mexican Customs development of a pilot project—an automated system that would eliminate their batch processing/release system of exports. The latter project is expected to result in a more even flow of truck traffic from Mexico.

Most recently, an innovative program has been developed for testing at southern border ports. This program will speed the entry of assembly plant goods from Mexico to the United States. The Customs services of both countries have agreed to test a tripartite agreement between U.S. Customs, Mexico Customs, and U.S./Mexico assembly plants (maquiladoras), designed to facilitate the entry of maquiladora products while maintaining the level of vigilance necessary to prevent the

smuggling of contraband through the use of assembly plant resources. Plants that pass security requirements and maintain standards set forth in the agreement will enjoy the benefits of rapid Customs entry and inspection processing.

LINE RELEASE

First tested in the Buffalo District in late 1986 for use along the northern border, line release has been expanded to 36 ports with 40 sites along the U.S.-Canada and U.S.-Mexico border. Line release was developed to meet the increasing demands for efficient, timely Customs processing of truck cargo and is designed to work in conjunction with the ACS selectivity system. Line release utilizes bar code technology for monitoring and tracking pre-approved, repetitive, low-risk shipments. It has allowed Customs to concentrate efforts on high-risk shipments and has resulted in a net increase in productive enforcement exams and actions. Truck traffic congestion at critical high volume locations such as the peace bridge in Buffalo and the Ambassador Bridge in Detroit has been reduced. Customs has plans to install line release networking at 11 sites this fiscal year.

NORTHERN BORDER INITIATIVE

The establishment of commercial centers and permit ports allows Customs to more efficiently use manpower and automated systems cargo examination equipment and facilities at specific locations rather than at all crossings along the northern border. This concept is consistent with our facilitation efforts while giving us enforcement capabilities that do not exist at our smaller ports of entry.

Customs tested a commercial center/permit port system and found that it worked successfully. The system was expanded to the other northern border States with 27 ports of entry designated as commercial centers. The remaining ports are permit ports. The basic premises are: (1) as much cargo is funneled to the commercial centers as possible; (2) permits to enter low-risk cargo at other than commercial centers are issued if it causes a hardship to enter the merchandise elsewhere; (3) current staffing levels, hours of service, passenger processing, informal entries and noncommercial shipments are not affected. Each commercial center has line release capabilities and we are in the process of incorporating rail shipments into the border cargo release program.

CENTRALIZED EXAMINATION STATION UPDATE

GAO has conducted a review of the Centralized Examination Station [CES] Program. Their report was a favorable one, in which they found no reason to further impede implementation of Customs CES program. In light of this report, Customs has opened a variety of CES's around the country. The concept of CES has allowed Customs to selectively target shipments arriving in containers for intensive examination. Those shipments which have been identified as low risk, are being released more quickly resulting in lower examination costs.

COMMERCIAL ACTIVITIES

Customs commercial activities include the overall mission of appraisement, classification and collection of duties from imported merchandise; effective enforcement of Customs laws, regulations, and other agency requirements for the control of carriers and cargo; and ensuring that imported merchandise meets all necessary requirements for entry into the United States. In order to carry out this complex task, Customs has developed policies and procedures to: insure uniformity and accuracy in the classification and valuation of merchandise; enforce laws and regulations that neutralize harmful trade practices; and to enforce international codes and agreements that provide for uniformity of trade procedures.

Our major challenge continues to be facilitation of cargo and entry processing while at the same time maintaining high compliance levels in dealing with an increasingly complex workload. We are continuing to meet this challenge through the increased use of selectivity processing supported by ACS and its various modules. Systems for linking field operations with the Customs national computer, as well as automated interfaces with brokers, carriers, and other agencies have been implemented. These systems, together with other innovative procedures, such as our new pre-entry classification and binding rulings programs and efforts to improve and enhance broker compliance, are working to bring about improved quality and uniformity in imported merchandise processing. Additionally, initiatives have been undertaken to greatly increase the use of computer assisted audit techniques and audit targeting within the regulatory audit function.

An important function in Customs trade enforcement program is the detection and prevention of commercial fraud. Our efforts in this area have been significantly enhanced by the implementation of a centralized approach for coordinating and disseminating information and intelligence to field units, as well as an increased use of multi-disciplinary efforts and expertise in detecting potential fraudulent transactions.

By automating our entry processing systems, the increasing volume of entry paperwork is now being processed more cost-effectively and efficiently. Along with these innovations, we are looking to eliminate as many paper forms and requirements from the entry process as possible. Our efforts in this area have led to a leadership role in the international community in the development and testing of electronic data interchange, which one day will result in the total transmission of invoice and other entry-related data by electronic communication between trading nations and the international business community.

INTELLECTUAL PROPERTY RIGHTS ENFORCEMENT

Customs is currently planning to implement an intellectual property rights enforcement program to present the illegal, but growing, sale of our intellectual properties, particularly those new dynamic technologies that will determine the industrial world leadership of the future. The program will focus at this time on such new technologies as super computers, super conductors, high definition television, and biotechnology. To this end, Customs is refocusing its enforcement efforts to issues that directly impact on our global competitiveness. The program will aggressively enforce intellectual property rights violation by implementing specialized organizations and staff to knowledgeably attack this very significant problem.

FISCAL YEAR 1989/1990 ACTIVITIES AND STRATEGIES

The next two years will see dramatic changes in Customs commercial activities. The harmonized tariff system and the Canadian Free Trade Agreement have now been implemented, along with a number of innovative Customs programs, such as our new binding rulings program. While we have done much to prepare for these changes, we can expect the early months of 1989 to be a learning process for trade and government alike.

Our major goals in the upcoming years will be to: continue the development and refinement of ACS; continue our commitment to the detection, deterrence and prosecution of commercial fraud; improve productivity and resource control, thereby furthering our paperless entry goals; increase the uniformity of commercial entry processing; facilitate the movement of cargo; oversee a smooth transition into the implementation of the harmonized tariff schedule; and focus our audit capabilities toward greater support of fraud detection and violation of trade agreements by enhancing our use of computer assisted audit techniques. We will also continue to make every effort possible to address the needs of the increasing number of trade control programs designed to protect domestic industry.

REGULATORY AUDIT

Many new and innovative techniques have been implemented in our regulatory audit program which are aimed at producing maximum results for the Customs Service. To enhance our audit capabilities, we have undertaken the automation of the entire audit process which will expand our capability for identifying and targeting audit candidates. Our goal is to continue to increase the average yield per audit man-year.

PRE-ENTRY CLASSIFICATION AND BINDING RULINGS

In response to continued complaints from the trade over inconsistent classification and lengthy delays in providing rulings to importers, as well as an ongoing concern that our system of providing classification advice to importers lacked uniformity, reliability, and timeliness, we developed and implemented a classification rulings program on January 1, 1989. The system expands the oversight role of our national import specialists for classification quality, and utilizes deputy national import specialists for less complicated rulings.

For most requests, we will issue a binding ruling in 30 days of the request. More difficult and far-reaching issues will continue to be decided by attorneys in our headquarters Office of Regulations and Rulings. We believe the 30-day period is sufficient to respond to most classification questions. With the implementation of this program, all written classification advice from Customs will be binding. The pro-

gram, referred to as the district rulings program, enhances the pre-entry classification program which was also implemented in January 1989. Pre-entry classification will be used for large volumes of commodities (known as line reviews). It differs from the district rulings program in that, in most cases, we will contact prospective participants, and decisions will be reviewed prior to official notice to the importer. The review process will usually occur within 45 days of receipt. Line review classification decisions given in writing are also binding.

Both programs have been developed to provide the timeliness and uniformity which importers need, as well as provide a control point for Customs in facilitating both quality and uniformity in our classification decisions.

BROKER COMPLIANCE

Brokers file approximately 90 percent of all Customs entries and will continue to represent the majority of importers for the foreseeable future. By the end of fiscal year 1989 it is expected that 90 percent of all entries filed by brokers will be filed electronically via the Automated Broker Interface [ABI], with the majority of those entries paperless. In order for Customs to operate with confidence in an electronic environment, we must be able to rely on the quality of the broker. For that reason, during fiscal year 1988, we established, for the first time, a national program to evaluate broker performance.

The broker compliance and evaluation program monitors broker performance and assures a high level of compliance with all laws and regulations enforced by Customs. Also, during fiscal year 1988, we successfully implemented and enforced a major piece of legislation which increased the level of supervision and control that a broker exercises over his Customs business by requiring that every broker employ a licensed individual in every district in which he operates.

COMMERCIAL FRAUD

The current business climate is continuing to present Customs with an increased commercial fraud threat. Prohibited merchandise continues to enter U.S. commerce through presentation of false documentation upon entry, use of counterfeit visas and export licenses, use of third countries as transshipment points, unintentional misdescriptions, and misclassifications. In addition, revenue losses are sustained due to undervaluation and the shipment of excess merchandise not declared upon entry.

The shift of resources to significant fraud investigations has produced excellent results in recent years. Domestic industries have been protected from unfair and illegal international trade practices, and the government has received substantial monetary returns from criminal fines and civil penalties. We will continue to use multi-disciplined fraud teams, employing the expertise of special agents, import specialists, inspectors, regulatory auditors, legal counsel, and technical staff. High-risk commodities such as textiles, wearing apparel, steel, coffee, and electronics will continue to be targeted, as will the detection of copyright and trademark violations. Increased prosecution and penalties from these investigations will play a major role in ensuring that lawful revenues are collected and that the integrity of trade agreements is maintained.

Recent concerns expressed by Congress, domestic industries, and the administration require that Customs place a high priority on the enforcement of country-of-origin marking requirements. In this regard, we are conducting a major marking initiative which is designed to target a wide range of commodities particularly susceptible to violation. To date, the results of our marking enforcement efforts have confirmed suspicions of significant violations.

Fiscal years 1989 and 1990 will see Customs paying increased attention to commodities such as textiles and steel, and also working hard to thwart attempts to circumvent a variety of antidumping and countervailing duty orders, as well as suspension agreements and attempts to circumvent voluntary restraint agreements.

CUSTOMS FIELD LABORATORIES

As part of our overall enforcement effort, we have significantly expanded the role of our field laboratories in supporting investigations of commercial fraud through enhanced dockside examinations and improved technology. During fiscal year 1989 and fiscal year 1990, the laboratories will continue to participate in multi-discipline fraud teams, providing technical information on high-risk commodities. Special analytical instrumentation provides the laboratories with the capabilities to supply sophisticated technical information in support of commercial fraud investigations. The laboratories will be operating an "18-wheeler" mobile laboratory along the South-

west border together with three additional mobile vans used to support our field enforcement efforts.

FINES, PENALTIES, AND FORFEITURES

Our major objectives for the fines, penalties, and forfeitures [FP&F] program will be to: further enhance the national FP&F automated system; standardize FP&F field practices and procedures; and establish procedures that will result in the prompt collection of fines, penalties, and liquidated damages. Automating our FP&F workload will enable us to provide consistent, legally sufficient notices to violators, as well as help to ensure prompt action on cases by facilitating inquiries on case status. We plan to continue our efforts to collect outstanding FP&F debts and reduce case backlogs.

U.S./CANADA FREE TRADE AGREEMENT

The U.S./Canada Free Trade Agreement [FTA], which was implemented January 2, 1989, creates the world's largest free trade area. It is the most historic, far-reaching trade agreement ever concluded, breaking new ground in removing barriers to trade in areas of tariffs, investments, services, agriculture, and business travel. By 1998, tariffs will have been progressively eliminated in staged reductions on goods which "originate" in the U.S. and/or Canada. In order for goods to qualify under this agreement, they will have to meet criteria spelled out in a set of "rules of origin." These rules serve to preclude third countries from obtaining the benefits of the agreement simply by passing their goods through the U.S. or Canada.

In November and December of 1988, prior to FTA implementation, Customs conducted training for field personnel and the trade community in preparation for administering the FTA. Customs trainers conducted import specialist and trade seminars in Canadian locations. Ten Customs representatives have participated in 122 seminars hosted by the Canadian Exporters Association and Canada External Affairs during January 1989. Approximately 25,000 Canadian manufacturers have been invited to these seminars.

AUTOMATED COMMERCIAL SYSTEM

ACS is Customs single, comprehensive automated system for handling our commercial processing. The system is now processing merchandise entries, revenue collections, entry liquidations, and an increasing number of broker transactions. In 1988, the number of Customs and trade community systems users grew substantially. There are now nearly 3,000 on-line Customs terminals in place and 800 trade community remote batch terminals communicating with the Customs data center. Significant new capabilities have been implemented, bringing ACS ever closer to the needs of its users and to our goal of completely automating our commercial processing activities. These include: the capability for entry filers to pay estimated duties and taxes via electronic funds transfer, an, automated harmonized system tariff file, and operational programs for electronic (paperless) entry and entry summary processing. A number of the initiatives which we will be pursuing in fiscal year 1989 and fiscal year 1990 are either linked to or are dependent upon our continued progress in developing and implementing ACS.

AUTOMATING THE CUSTOMS INFORMATION EXCHANGE

Our efforts to effectively achieve classification uniformity depend on a more efficient system for reporting, resolving, and disseminating classification issues and decisions. Our existing system for disseminating this information, the Customs information exchange [CIE], relies on the manual preparation and mailing of forms (the CF 6431, report of classification and value) between our national and field import specialists.

Automating the CIE will provide the means for field import specialists and national import specialists to electronically communicate classification, value, admissibility, and statistical information to each other. It will allow us to: more efficiently track differences in classification and value, provide on-line research and query capabilities, eliminate duplicate processing of reports from several ports, and provide automated communication of historical records of importations. On the whole, it will enhance equitable treatment for the trade by speeding Customs resolution of questionable issues and problems. The module is also critical to our plans for providing importers with pre-entry classifications. The major part of the module is projected for completion in 1989.

AUTOMATED BROKER INTERFACE

Automated Broker Interface [ABI] permits brokers and importers to interface directly with the Customs national computer in order to transmit entry data on imported merchandise. The ABI eliminates the keying of redundant data, which is a major step in reducing the manual preparation of import documentation. Through ABI, Customs is electronically linked with the importing community, through direct computer-to-computer interface among brokers, importers, port authorities, service bureaus, and the Customs Service data center. At this time, over 65 percent of total entry summaries are processed through computers. Based on extensive broker surveys, the potential entry volume for ABI is about 75 percent to 85 percent. Under these circumstances, ABI provides a unique opportunity for both the trade community and Customs to improve their respective processing by the electronic interchange of data.

AUTOMATED MANIFEST SYSTEM

The automated manifest system [AMS] is both a Customs cargo enforcement system and a cargo release notification system. The AMS is a means of speeding the flow of cargo through an electronic release notification system and reducing paperwork for both carriers and Customs by decreasing the number of discrepancy reports and in-bond documents required.

Sixteen carriers, four port authorities, and six service centers are now fully operational as AMS participants. The AMS is currently processing 46 percent of the total sea bills of lading handled by Customs. Importers, brokers, carriers, port authorities, and other government agencies are all benefiting from greater control, better communication, and speedier processing of imported cargo. Customs enforcement capabilities are also enhanced by early access to this electronic data.

CARGO SELECTIVITY

The cargo selectivity module is designed to identify high-risk and low-risk entries for quick processing with substantial savings in personnel resources. Cargo selectivity is currently operating in 146 ports throughout the United States. Cargo selectivity has been enhanced to incorporate more data and a history file which will provide a comprehensive track record of importers and commodities. Discrepancies found during cargo examination can be written into this history file. Ultimately, the system will permit us, through the use of pre-programmed criteria, to process and liquidate selected entries with a minimum of hard copy documentation.

DAY ONE

In fiscal year 1987, we established the Day One task force to look at Customs procedures, practices, systems, and organizations with a fresh perspective and to develop modern approaches for accomplishing Customs mission. Since then, the Day One group has piloted several successful initiatives including: a hybrid inspector/import specialist position, called the "trade inspector," in the New York region; expansion of two local pilot tests of the one-stop quota processing concept to 20 locations; pilot tested a paperless entry processing concept and converted it to a national system; initiated pilots that test the viability of eliminating paper entry summaries corresponding to goods released to ABI participants via our line release system; initiated forms elimination, rerouting and data capture negotiations with a variety of other agencies to assist Customs in going paperless; and contracted for the survey and production of a report to serve as a road map for Customs commercial processing in the 21st century.

From the aforementioned report, Customs is pursuing 18 opportunities to improve its service and streamline its processes. The most significant opportunities being pursued are those which address improving Customs classification uniformity, the use of electronic data interchange [EDI] for replacing paper documents with electronic data, and a concept known as "triangle processing." In the world arena, U.S. Customs has taken the lead in the development and testing of the global EDI standard known as UN/EDIFACT (United Nations Electronic Data Interchange for Administration, Commerce, and Transport).

TRIANGLE PROCESSING

This opportunity, designed to allow entries and entry summaries to be filed at separate locations from where goods arrive, relies on the use of electronic data. With the concurrence of the brokerage community, a pilot test of triangle process-

ing began in the New York region on October 17, 1988. The test involves one large, automated New York area broker, six of its national accounts, and eleven Customs ports. We will assess the viability of triangle processing based on responses to questionnaires we have distributed to pilot participants and the ports that are involved. Completion of the evaluation and development of an action plan for expanding triangle processing is targeted for February 24, 1989.

HARMONIZED SYSTEM IMPLEMENTATION

Replacing the tariff schedules of the United States [TSUS] with the harmonized tariff schedule [HTS] of the United States has been a major priority for Customs. The HTS is intended to provide the U.S. and other trading nations with a common basis for describing and coding both imported and exported merchandise, which will result in greater uniformity in the classification of goods. In accordance with the statute, the harmonized system was implemented on January 1, 1989, after extensive preparation by the U.S. Customs Service. Preparations for the implementation included nationwide training for all Customs personnel involved in the processing of commercial shipments as well as to the public, other government agencies and various trade associations.

To assist the importing public in the transition to the HTS, we have been issuing tariff classification rulings this past year under the HTS and making rulings packets available. The HTS implementation has also required comprehensive revisions to existing Customs regulations, which will be an ongoing effort. Information on the harmonized system has also been distributed to the general public, alerting them to the potential effects of the implementation of the new system.

INTERNATIONAL AFFAIRS

Customs relationships with its foreign counterparts are crucial. Customs is making steady progress in obtaining bilateral agreements. Currently, there are formally signed agreements with: France, Austria, Germany, Mexico, Canada, Italy, Korea, Cyprus, Sweden, and Finland. Negotiations are ongoing with Spain, Australia, and the United Kingdom. Agreements are expected to be signed in 1989 with Greece, Norway, Belgium, and Denmark.

Over the past 4 years, Customs has participated in interagency and international meetings to negotiate an international convention against illicit traffic in narcotic drugs and psychotropic substances. Final negotiations on the convention were held in Vienna, Austria, from November 26 to December 20, 1988. A strong convention was produced which the United States signed on December 20, 1988. The convention will be sent to the Senate for ratification. Several articles in the convention are of interest to Customs including those on asset forfeiture, commercial carriers, mail, free trade zones, law enforcement assistance and cooperation, and precursor chemicals.

The U.S. Customs Service will be hosting the 1989 plenary meetings of the Customs Cooperation Council [CCC] this summer. Hosting these meetings is important to both the Treasury Department and the U.S. Customs Service. Hosting the CCC meetings provides a practical means of promoting the image of Treasury and Customs, especially significant during Customs bicentennial. It also provides an opportunity to promote our facilitation, trade and enforcement efforts in the larger international community.

USER FEES

Currently, Customs collects user fees for a variety of services mandated by the Consolidated Omnibus Budget Reconciliation Act of 1985 [COBRA]. The COBRA fees were effective on July 7, 1986, and cover services provided primarily for conveyance (trucks, railcars, vessels, private yachts/aircraft, etc.) and passenger-related (air & sea) Customs processing. On December 1, 1986, an additional user fee was mandated by the Omnibus Budget Reconciliation Act of 1986 [OBRA] to cover Customs costs of commercial merchandise processing. The merchandise processing fee [MPF] is an ad valorem fee of 0.17 percent assessed on the value of commercial merchandise entries.

In response to complaints from member nations of the General Agreement on Tariffs and Trade [GATT] Organization, the MPF was generally faulted because of the ad valorem nature of the fee and to the extent that it produced excess charges for Customs processing.

In order to comply with the GATT decision, the administration will be submitting for fiscal year 1990 legislation proposing that the ad valorem rates be replaced by a

transaction-based fee. As currently envisioned, this new fee will be tailored to Customs processing activities and fairly represent the costs of these operations.

CONCLUSION

In carrying out its border-protection mission, Customs must balance the dictates of enforcement with the requirement to facilitate the legitimate movement of passengers and cargo into the United States. Maintaining this somewhat delicate balance requires that Customs utilize all available technology in the most efficient manner and that it closely coordinate with all participants in the world trade community. I believe Customs has made great strides.

This concludes my introductory statement.

I am ready to discuss the details of the request and answer your questions and those of the subcommittee members.

MEDIA ATTACK ON CUSTOMS AIR PROGRAM

Senator DECONCINI. Thank you, Commissioner. Let me start with a few questions and then I will yield to my colleagues here.

As you are aware, Commissioner, the Customs air interdiction program has come under recent attack from the news media. Just this week NBC News said Customs has acquired millions of dollars of air assets, including aerostat radars, but that you are not catching any drug smugglers.

How do you specifically respond to this charge? Is the Customs air interdiction program working? You have already supplied some of the statistics, but we would like to have you repeat that information here. How do you answer that general question, Commissioner, and how do you measure the success of the Customs air program?

Mr. VON RAAB. First of all, I would point out that I spoke to the very same reporters who did that piece and who made those statements, and I would like to make it clear for the record that the facts that we have provided to you here, we have provided to them.

Senator DECONCINI. They had all of that?

Mr. VON RAAB. Absolutely. They had it informally on paper. They also interviewed me for over 45 minutes with respect to these same issues. I must say I was surprised that not 1 second of my positive comments about the air program appeared on that program.

One of the individuals that appeared criticizing the Customs Service was a man whom I had let go some years ago for insubordination.

Senator DECONCINI. I would like to confirm—that was Mr. Ault, is that right?

Mr. VON RAAB. That is right, yes.

Senator DECONCINI. And when was he fired?

Mr. VON RAAB. I would have to guess it was 3 or 4 years ago. He was not fired per se. His contract was not renewed.

Senator DECONCINI. And is it true that he opposed the air interdiction program?

Mr. VON RAAB. Frank Ault is a very interesting man who has his own ideas about how things should be done. If you don't agree with him 100 percent, he seems to believe you are wrong.

Senator DECONCINI. Do you know for a fact that he now works for General Electric?

Mr. VON RAAB. I am not sure where he works. I believe the television program indicated he worked for General Electric.

Senator DECONCINI. And General Electric is one of the prime contractors on the aerostat balloons, is that correct?

Mr. VON RAAB. Yes; as a matter of fact, Westinghouse started out producing our balloons. We put our balloons out for competitive bid, as we would do on a regular basis, and General Electric then won the contract that was previously held by Westinghouse. That is correct.

Senator DECONCINI. And just for the record, it is interesting to note that General Electric is a major owner of NBC.

Mr. VON RAAB. Is that right?

Senator DECONCINI. Yes.

Mr. VON RAAB. Yes. [Laughter.]

Senator DECONCINI. So NBC and General Electric make a lot of money on selling Customs aerostats.

AIR PROGRAM STATISTICS

Mr. VON RAAB. If you will permit me to provide it for the record, I have a chart of statistics on our air program which runs from 1982 through 1988.

I might point out that in 1982 we seized 211 pounds of cocaine. In 1988, we seized 49,000 pounds, as we indicated to Senator D'Amato earlier.

Senator DECONCINI. We will place that information in the record.

[The information follows:]

U.S. CUSTOMS SERVICE

OFFICE OF AVIATION OPERATIONS

Related Or Assisted National Seizure Statistics

	FY 1982	FY 1983	FY 1984	FY 1985	FY 1986	FY 1987	FY 1988
NARCOTICS (lbs)							
Cocaine	211	2,512	4,265	12,361	16,145	23,240	56,545
Marijuana	12,513	72,839	46,886	289,329	58,041	170,943	137,490
Other	25	4	0	0	87	13	2
CONVEYANCES							
Aircraft	74	76	50	87	41	66	72
Vehicles	50	78	57	73	49	74	212
Vessels	11	18	12	41	8	27	23
CURRENCY	$ 154,963	$ 350,620	$ 133,723	$6,645,911	$2,787,807	$2,272,398	$9,899,806
WEAPONS					16	9	178
ARRESTS	191	337	458	310	167	250	473

AIR PROGRAM DETERRENCE

Mr. VON RAAB. The statistics fully support an extremely successful program, but what must be considered, as Senator D'Amato indicated earlier, is the deterrent value of our air program.

We don't develop an air program just so we can collect airplanes and pilots and send them to jail. The purpose of our air program is to prevent drugs from coming into the United States. We are much happier if it deters smuggling than we are having to go through the process of arresting and seizing.

The deterrent value of our air program is immeasurable, and I say that because in some cases people do not try to penetrate our air defenses at all. That, to me, is the absolutely perfect example of a fine deterrent.

So not only are the statistics supportive of a very successful air program, but the deterrent value of the program is enormous. The program must be spread to the rest of the United States.

GROUND SEIZURES

Senator DECONCINI. Is there any relation between the ground seizures, in your judgment, and the success of the air program on the Southwest border? In my State, the ground seizures by the Border Patrol are up over 100 percent.

Mr. VON RAAB. I am informed by our staff that in the areas around the new aerostats, the air smuggling has literally dried up, as well as a lot of the smuggling activity typically associated with air smuggling in that area.

The ground seizures in areas that are not covered by the aerostats are way up, as you indicated from your conversations with the Border Patrol.

STATUS OF AEROSTATS

Senator DECONCINI. Just very quickly, can you give us a summary of the aerostats? How many are there? If you want somebody else to do it——

Mr. VON RAAB. I think Mr. Rosenblatt can give you the latest.

Senator DECONCINI. Mr. Rosenblatt, can you give us a quick summary for the record? How many aerostats are contracted and how many are operational, and when will you be finished with the program if everything falls into order?

Mr. ROSENBLATT. Well, as you know, in the Caribbean there are three. Two of them are Air Force and one is the High Rock balloon. We have contracted for the Georgetown, Bahamas, balloon, where initial operating capability will be September 22 and final operating capability will be November. Now, we need that period of 6 weeks, Mr. Chairman, to do what we call a full evaluation on it to make sure that the system is as we ordered it.

On the Southwest border, the Fort Huachuca, as well as the Deming, NM, balloons are up. However, the final capability of the Deming, NM, balloon, we have every expectation will be accepted on March 22. It has already been up for initial operating capabilities in December.

Senator DOMENICI. Mr. Chairman, could I inquire?

Senator DECONCINI. Sure.

Senator DOMENICI. When you say that about the Deming aerostat, I read into that statement that you have a period during which you evaluate the performance of that which you ordered.

Mr. ROSENBLATT. That is correct.

Senator DOMENICI. And so whatever we are hearing about Deming, we are still in an evaluation period. If it turns out that it isn't operating right as per specs, then somebody has to do something about it, right?

Mr. ROSENBLATT. We will not accept it, and the company will be required to fix it until it is right according to the specifications.

Senator DOMENICI. Have we paid for it yet?

Mr. ROSENBLATT. Absolutely not.

Senator DOMENICI. Now, let me ask you, do you have fixed criteria for these aerostats as to what they are supposed to accomplish both technologically and in terms of their capability day by day?

Mr. ROSENBLATT. Yes; not only, Senator, do we build the specifications, but we also build what we call an operation evaluation plan, which is full of criteria. And by having these criteria, we match the specifications to ensure that the capabilities are working, and we will not accept that piece of equipment, in this case the aerostat balloon, without it all working properly.

I might add on the Fort Huachuca balloon, if I may, although we expected to have it within 2 months after initial operating capability, we have worked with the company in excess of 8 months to ensure that we achieved all the capabilities in accordance with the specifications that were built into the performance.

Mr. VON RAAB. We are known as a very tough customer when it comes to having us accept a piece of equipment.

EVALUATION OF AEROSTATS

Senator DOMENICI. Let me ask this. I join the chairman in his statements here with reference to the contentions made on NBC. Obviously, they were not all directed at Customs, but they had some other issues that they are concerned with.

But I believe that this committee and the U.S. Congress has been very forthright in wanting air interdiction as one of the components of our antidrug program. And I believe new technologies like aerostats were developed and promoted by those who were knowledgeable in air interdiction, and I have no reason to believe to the contrary. I don't think that was put together by somebody's special preference.

So I would like very much, Commissioner, if you would submit for this record, because I think we need it, the original evaluation, the scientific evaluation as to what the aerostat program was supposed to do, and then evaluate what you have had to this point and give us an objective set of circumstances and conclusions because, obviously, contrary to what others might think, I am firmly convinced this committee has no interest other than to do what the best experts in the field tell us we can do and that we should do.

And I think we need to take another look. Put it down on paper so that we can evaluate it because we are planning to procure some more. And we need as good an evaluation of this as we can have.

You ought to be very insistent in your evaluation because I firmly believe the inference that these air interdiction assets don't work, the inference that there is some kind of a special preference being given to somebody, has to be dispelled.

I mean, I am not going to pass judgment on whether you need an airplane like this or an aerostat like that. I have got to listen to experts, and I believe that is all we did. I don't think this committee did anything else.

P–3 STUDY

Senator DECONCINI. If the Senator would yield, I would like to expand on that subject. I understand there was a study done in 1983 on the effectiveness of the varying types of aircraft—the P–3 study. Are you familiar with that?

Mr. ROSENBLATT. Yes, sir.

Senator DECONCINI. Can you supply us with a copy of that study and the results?

Mr. ROSENBLATT. Yes, sir.

Senator DECONCINI. I am worried about this attack on the effectiveness of the war on drugs and not having on the record how Customs, and ultimately Congress, decided to focus resources on the P–3 rather than the E–2C, as well as the aerostats, rather than ground-based radar.

[The information follows:]

[CLERK'S NOTE: Because the P–3 study is classified, it is provided to the subcommittee under separate cover.]

AIR ASSET COMPARISONS

Mr. ROSENBLATT. We have also done comparisons on land-based aerostats, sea-based aerostats, AWACS, and Hawkeyes, from range and also with respect to availability and cost.

Senator DECONCINI. We would like to have all that, please, for the record.

[The information follows:]

AIR DETECTION SYSTEMS COMPARATIVE SUMMARY
TO PROVIDE LOW ALTITUDE DETECTION CAPABILITY FOR 150 NM RADIUS

	LAND BASED AEROSTAT	SEA BASED AEROSTAT	E-3 AWACS	E-2C HAWKEYE
DETECTION RANGES	150 NM (2M2 Target)	45 NM (2M2 Target)	200 NM (2M2 Target)	180 NM (3M2 Target)
OPERATING ALTITUDE	15,000 Ft MSL	2,500 Ft ASL	29-31,000 Ft	25,000 Ft
ENDURANCE FACTORS	7X24 Sustained (60% Availability)	22 Days On Station (90% Availability 27 of 30 Days/No to inc. 5 Days Transit)	11 Hours (Unrefueled) 22 Hours (Refueled)	3.65 Hours (Cruise) 4.15 Hours (Loiter)
ACQUISITION COST/ ASSET	$18 Million	$6.788 Million Vessel not included	$200 Million (Direct Sales)	$42 Million
ASSET REQUIREMENTS	One System	4 Ships On Station 1+ Ships In Port and/or Yard (= 5 Ships/Systems)	5 Aircraft Depending upon Surveillance Location	5 Aircraft Depending on Surveillance Location
TOTAL ACQUISITION COST FOR REQUIRED ASSETS	$18 Million	$33.94 Million	$1.0 Billion	$210 Million
ON STATION COST PER HOUR	$500	$1216 ($ 304 X 4 Ships)	$8338 (US Govt)	$1800 (USN)
COST FOR 5256 HOURS OF STATIC SURVEILLANCE (60% LBA Availability)	$3.0 Million	$6.391 Million	$43.824 Million	$9.460 Million

AIR DETECTION SYSTEMS COMPARATIVE SUMMARY
TO PROVIDE LOW ALTITUDE DETECTION CAPABILITY FOR 150 NM RADIUS

	P-3 AEW
DETECTION RANGES	220 NM
OPERATING ALTITUDE	17 - 24,000
ENDURANCE FACTORS	14 Hours
ACUISITION COST/ ASSET	$ 35 Million
ASSET REQUIREMENTS	4 Aircraft
TOTAL ACQUISITION COST FOR REQUIRED ASSETS	$ 140 Million
ON STATION COST PER HOUR	$ 2500
COST FOR 5256 HOURS OF STATIC SURVEILLANCE (60% LBA Availability)	$ 13.13 Million

Mr. VON RAAB. I think you will find that we have a very strong, credible, and professional record. I am not sure what the number is, but I know that there have been over 100 analyses, both external and internal studies, with respect to our air program, and it is a very strong record.

We will happily provide you not only with what you have asked for specifically, but we will give your staff the totality of the work that has been done from which they can select what they feel is important for the record.

AEROSTAT OPERATING TIME

Senator DECONCINI. Maybe, Mr. Rosenblatt, you could just explain something to me—I have before me a sheet on the aerostats. Most of the operational time or percentage up in the air, when the aerostats have been operational, is not very impressive.

The Cape Canaveral Air Force aerostat installed in 1987 was up only 51 percent of the time. The Cudjoe Key Air Force aerostat in 1987 had been up only 68 percent of the time; in 1988 it was up 65 percent of the time. In 1989—I don't know how they know—I guess so far this year it has been up 77 percent of the time.

Mr. ROSENBLATT. Yes; for the first quarter.

Senator DECONCINI. For the first quarter. And then down at Fort Huachuca—and we don't have anything on Deming yet, but the

only one in the Southwest, in 1988 just from June to September, it operated only 54 percent of the time. And in 1989, during the first quarter, it has operated at 56 percent.

Why are some of these statistics so low, or are they low?

Mr. ROSENBLATT. Some of them are low. We hope to get around 60 to 65 percent capability at any given time. This is because of weather, and also because of scheduled and unscheduled maintenance.

Senator DECONCINI. Tell me about the maintenance, how often is it done, how long does it take and why does it take so long?

Mr. ROSENBLATT. For instance, at Fort Huachuca, there was authorized downtime relating to system modification and equipment failures, such as a high-voltage cable failure and problems with what we call a Dopler predictor, associated with the radar.

The system was authorized downtime of approximately 135 hours in September 1988, for instance, for an evaluation by the Air Force 84th Radar Evaluation Squadron.

Senator DECONCINI. That is considered technical problems with the machinery?

Mr. ROSENBLATT. Yes; technical problems.

Senator DECONCINI. And is that still the obligation of the manufacturer?

Mr. ROSENBLATT. Absolutely, that is correct; we are not going to accept it, as I said.

Senator DECONCINI. And it is not fully paid for until it is operational?

Mr. ROSENBLATT. That is correct, until it is completely operational and in conformance with the specifications.

Senator DECONCINI. Which calls for roughly, what, 65 percent operational?

Mr. ROSENBLATT. We want to have at least 60 to 65 percent. Then there is scheduled maintenance and then there is going to be the weather factor.

Senator DECONCINI. Yes; you can't control the weather.

Mr. ROSENBLATT. Which we can't control.

Mr. VON RAAB. An interesting observation on this is that what we have with the aerostats is basically the deployment of brand new technology. If this were the Defense Department, you would not have seen it take 5 years to get into the air and working. You would have seen it take 5 years to get it off the drawing boards, another 5 years to build it, and probably another 5 years to get it so that it would fly.

But we have moved from absolutely ground zero to a capability that we are still breaking in, and that is what we mean by operation evaluation. I would point out that, as Mr. Rosenblatt has said, we don't expect these to be flying 100 percent of the time; it is a physical impossibility.

Lightning and all sorts of weather can bring them down, which is why we have deployed the P-3 airborne early warning [AEW], whose primary purpose is to supplement the aerostats during those periods in which they are down or otherwise unable to find the planes coming in.

And so they are a necessary team, an early-warning aircraft and the aerostats, which I would point out is no different from the De-

fense Department, whose over-the-horizon radar also must be supplemented by their AWACS planes. There is never a system that by itself is complete. It always has to be supplemented by a similar system.

STATUS OF P-3'S

Senator DECONCINI. Let me just follow up on that question on the P-3's. How many P-3's do you have?

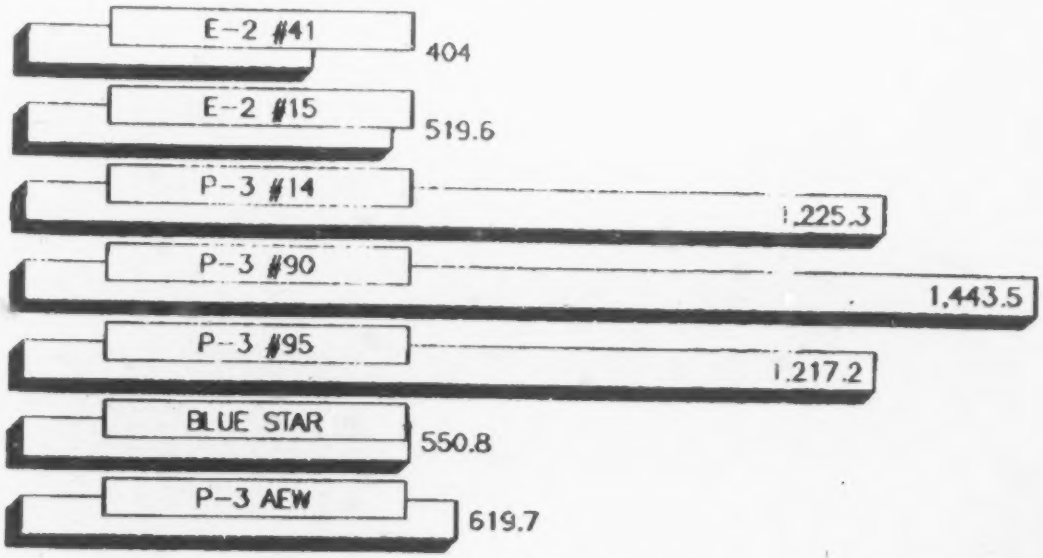
Mr. ROSENBLATT. We now have a total of five P-3's, one with an AEW, four of what we call our A models without the AEW.

Senator DECONCINI. And will you supply for the record the time they are in the air?

Mr. ROSENBLATT. I would be glad to.

[The information follows:]

FLIGHT HOURS PER AIRCRAFT
CALENDAR YEAR 1988
SURVEILLANCE SUPPORT CENTER



E-2C #41 ARRIVED AT THE SSC IN MAY 1988.
P-3 AEW ARRIVED AT THE SSC IN JUNE 1988.
BLUESTAR ARRIVED AT THE SSC IN JULY 1988.

P-3 SCHEDULE

Senator DECONCINI. And they are used primarily now to cover these areas where the aerostats are not?

Mr. ROSENBLATT. That is correct.

Senator DECONCINI. And when do you expect the next AEW to come on line?

Mr. ROSENBLATT. In April.

Senator DECONCINI. April?

Mr. ROSENBLATT. That is when we expect it from the contractor.

Senator DECONCINI. And then the third one is due when?

Mr. ROSENBLATT. The third one has not been completely funded yet.

Senator DECONCINI. How much has been funded, $7 million?

Mr. ROSENBLATT. Yes; $7 million.

Senator DECONCINI. Out of $30 million?

Mr. ROSENBLATT. Out of approximately $35 million.

Senator DECONCINI. $30 or $35 million?

Mr. ROSENBLATT. Between $30 and $35 million because of inflation.

Senator DECONCINI. Total funding?

Mr. ROSENBLATT. Right, total funding.

Senator DECONCINI. And the fourth one, of course, is not funded?

Mr. ROSENBLATT. That is correct, sir.

Senator DECONCINI. OK. One last question and then I will yield to my——

Senator DOMENICI. Mr. Chairman, on that——

Senator DECONCINI. Yes.

AEROSTAT FUNDING

Mr. ROSENBLATT. If I may submit for the record, Mr. Chairman, the full response to your question as to how many of these aerostats have been funded?

Senator DECONCINI. OK. Without objection, we will accept that information for the record.

[The information follows:]

Aerostat Program Funding

Aerostats for Southwest Border and Caribbean	*Dollars in millions*
Funds transferred from Air Force	116.0
Allocated to High Rock O&M	2.9
Allocated to Puerto Rico	2.0
Bal remaining	111.1
Obligations to date for 5 SW and 1 Cariball	98.7
Bal remaining	12.4
Anticipated addit costs to complete sites	7.3
Anticipated addit related prog costs (meteorol, prog management, etc.)	5.1
Bal remaining	0.1
Unfunded requirements USCS:	
Great Inagua	12.9
Great Inagua additional costs (i.e. road)	10.0
Four Gulf Aerostats (@ $11.8M each)	47.2
Anticipated addit site & related prog costs for Great Inagua & four Gulf systems	4.2

Aerostat Program Funding—Continued

Aerostats for Southwest Border and Caribbean	*Dollars in millions*
Program Contingency	2.7
Subtotal	77.1
Bal remaining	−77.0
Unfunded requirements USCG:	
Marine Enhancement at High Rock	2.0
Cape Canaveral Relocation	9.5
Subtotal	11.5
Bal remaining	−88.5
Anticip funding	88.5

AEROSTAT JOINT PROGRAM OFFICE FUNDING

Source/site	Original budget	Obligated costs	Anticipated costs	Total costs
U.S.A.F.:				
Georgetown	$18,000,000.00	$21,073,268.10	$1,755,828.00	$22,829,096.10
Deming, NM	18,000,000.00	16,655,266.69	80,078.37	16,735,345.06
Yuma, AZ	18,000,000.00	16,853,025.44	1,954,504.84	18,807,530.28
Marfa, TX	18,000,000.00	14,277,499.08	1,123,617.02	15,401,116.10
Eagle Pass, TX	18,000,000.00	13,988,376.00	967,141.46	14,955,517.46
Great Inagua	18,000,000.00	1,312.10	12,924,998.00	12,926,310.10
Rio Grande City		11,263,704.62	1,417,135.38	12,680,840.00
Matagorda, TX		5,824.90	11,782,137.00	11,787,961.00
Gulf #2		0.00	11,792,137.00	11,792,137.00
Gulf #3		0.00	11,792,137.00	11,792,137.00
Gulf #4		0.00	11,792,137.00	11,792,137.00
Puerto Rico	1,400,000.00	1,396,833.00	603,167.00	2,000,000.00
High Rock O&M	2,900,000.00	2,900,000.00	0.00	2,900,000.00
Related costs		4,545,153.43	9,325,991.55	13,871,144.98
Totals		102,960,262.46	77,311,009.62	180,271,272.08
Tot USAF	116,000,000.00			
Balance	(64,271,272.08)			

COSTS OF AIR PROGRAM TECHNOLOGY

Senator DOMENICI. I think you ought to also furnish for us with reference to the aerostat program the economic justification for them.

Senator DECONCINI. Good point, compared to the E–2C's.

Senator DOMENICI. Clearly, any of the other air surveillance assets, such as airborne radar platforms and the like, are tremendously expensive, comparatively speaking, and that justifies moving with a new technology.

If my numbers are right, based on 60 percent surveillance availability, a land-based aerostat costs $3 million. Comparable E–2C radar surveillance coverage would cost $9.5 million; that is over three times as much. For similar E–3 AWACS coverage it is $43.8 million, which is nearly 15 times as much. For a sea-based aerostat, it is $6.4 million, double the expense of a land-based aerostat.

This comparison indicates that we are in percentages of 2 to 15 times the cost for comparable alternative coverage. I believe this clearly justifies attempting to find this other alternative, and I

assume that was one of the reasons this technology was approached and why we are using it. Is that correct?

Mr. ROSENBLATT. Very much so, and if I may add to your analysis there, Senator, with respect to the sea-based aerostats, I believe the figures do not include the gray hulls that would be required for the aerostats that would be affixed to those vessels. So then the figures would even be greater in that instance, not to criticize that system.

I think each system has its place, but I think we are much, much more cost effective with having a fixed detection network as well as a mobile detection network to allow flexibility, particularly on the Southwest border.

Senator DOMENICI. Well, I just want to make this point, and I am sure the chairman supports this. We are in the business here of trying to supplement and be part of the war on drugs, and clearly we have some responsibilities and among those are to do the very best with modern technology in the Air Interdiction Program.

Frankly, we don't have any favorites. I don't think this committee has any favorites as to how to do it. We want to do what is best, what is most economical, and what is apt to work.

In that regard, if you would compare these operational costs based upon living data, I think that would be helpful. Even though we are only in the beginning stages of aerostats, the numbers I gave you are based on a theoretical 60-percent availability and the like, and if you have some true operational comparisons, I think we would like to have those. They are going to come out comparable, in any event, from what I can tell.

Mr. ROSENBLATT. We would be glad to also provide you for the record some other living data where our agents have questioned and talked to informants or defendants who have said that they know that the aerostat is up there and why would they be coming into the cone of the aerostat in order to get caught? Anybody who would do that must be either crazy or a masochist.

Senator DOMENICI. Thank you, Mr. Chairman.

[The information follows:]

LIVING DATA

The United States Customs Service, Office of Intelligence has currently documented thirteen instances of intelligence sources providing specific information to the effect that Drug Interests in both the Caribbean and along the U.S.-Mexico Border have been forced to actively collect operational information about aerostats. This information is used extensively in the operational planning for air and marine-surface narcotics shipments through areas covered by an aerostat radar system.

AIR INTERDICTION FUNDING

Senator DECONCINI. Is your 1990 budget, Commissioner, sufficient to allow you to reach your air interdiction goal by fiscal year 1992, and if not, what additional funding is going to be necessary for that purpose in fiscal year 1990 for air interdiction?

Mr. VON RAAB. On the air interdiction costs?

Senator DECONCINI. On air interdiction.

Mr. VON RAAB. The Air Interdiction Program is part of a national strategy against which we would spend money, and so it is hard to say whether we could reach our goal in any particular year.

It would not provide us with the money necessary to complete the air strategy, no. But at the same time, this strategy must be funded in accordance with our Government's general fiscal needs and sources of supply.

And so to answer quickly, it cannot fund the entire interdiction strategy in 1990.

Senator DECONCINI. How short are you in 1990 to fund the Air Interdiction Program?

Mr. VON RAAB. Well, I must point out that it is the general strategy of the National Drug Policy Board. This is obviously a difficult issue because it is not a question of how much funding is needed in a particular year; it is a question of how fast you want to fund a particular strategy.

In order to complete the aviation strategy as approved by the National Drug Policy Board, which I must say didn't necessarily suggest that it be done this year, we would have to spend $154 million.

Senator DECONCINI. All of that is needed in 1990? I think I have the figures.

Mr. VON RAAB. In order to fund all of the items in the strategy, an additional $154 million would have to be spent in fiscal year 1990.

Senator DECONCINI. Yes; that is $30 million for the AEW, but $7 million of that has already been provided as a downpayment, isn't that correct?

Mr. VON RAAB. That is right.

Senator DECONCINI. So that is $23 million, or the price goes up $3 or $4 million. And then you need 10 Citations; are those part of your long-range plans?

Mr. VON RAAB. That is correct, yes.

Senator DECONCINI. So the 10 Citations would cost $65 million, and then you need approximately 149 additional personnel at a cost of $5 million. Then you are also talking about an additional P-3 AEW which must come on line in 1991?

Mr. VON RAAB. That is right.

Senator DECONCINI. But you need to make the downpayment, is that correct, in 1990?

Mr. VON RAAB. Yes; typically you find you are spending money in more than 1 year for something that would be operational later on.

Senator DECONCINI. So you don't need the whole $30 million in 1990 for number four, or do you?

Mr. VON RAAB. We could stretch it out.

DRUG BILL FUNDING

Senator DECONCINI. OK. So we have got a lot of money to come up with if we want to keep the air interdiction strategy on schedule. Where did I get the figure that there was a $50 million shortage in the budget request for operations? Is that for the operation of the Air Interdiction Program?

Is that for operations and maintenance?

Mr. VON RAAB. That is the difference between the drug bill authorization and the appropriation.

Senator DECONCINI. You are $50 million short there?

Mr. VON RAAB. Well, it was authorized at a certain level and actually appropriated at $50 million less than that.

Mr. ROSENBLATT. We were authorized $57 million and we were appropriated $7 million.

Senator DECONCINI. OK. I yield to the Senator from New Mexico.

PRESIDENT BUSH'S BUDGET

Senator DOMENICI. Maybe you can do this, maybe you can't. As to the Bush budget, what specific changes to the fiscal year 1990 Reagan budget request for the Customs Service are being imposed in the budget that President Bush submitted?

Mr. VON RAAB. It is a bit difficult to follow your way through it, but basically it is a $10 million increase, of which about $7 million is for examining cargo containers and $3 million is for money laundering investigations.

Senator DOMENICI. And we could then assume, subject to your making modifications if you want to once you have studied it in detail, the Reagan budget is the budget proposal but for those changes?

Mr. VON RAAB. Yes.

ALBUQUERQUE HANGAR

Senator DOMENICI. All right. The Albuquerque Air Branch Facility—$4.58 million has been appropriated for this new facility; $2 million was appropriated in fiscal year 1988 and $2.58 million in fiscal year 1989.

Your fiscal year 1990 request shows a reduction of $3.58 million associated with this hangar as a, quote, "nonrecurring cost." Why are you making a $3.5 million nonrecurring cost reduction when only $2.5 million is appropriated for the facility in fiscal year 1989? The way I see it, you are losing $1 million more than is necessary out of your base between these 2 years.

Mr. VON RAAB. If it is all right with you, Senator, we will take a good look at that.

Senator DOMENICI. All right.

Mr. VON RAAB. May we respond on the record for that?

Senator DOMENICI. Of course.

[The information follows:]

ALBUQUERQUE AIR BRANCH FACILITY

In order to track the budget more clearly, the entire $3.58 million was nonrecurred since these funds would not be used in fiscal year 1990 for this same project; however, additional funding was also requested to cover increased costs of operations for the Aviation Program in fiscal year 1990. These costs will then become a part of the base.

Briefly, the history of this project is as follows: $2.0 million was appropriated in fiscal year 1988 and nonrecurred in fiscal year 1989; $2.58 million was appropriated in fiscal year 1989. Customs supplemented this with an additional $1.0 million originally allocated to operation and maintenance of NOMAD aircraft but no longer needed for that purpose. Customs proposes to nonrecur the $3.58 million for this project in fiscal year 1990; consideration of an additional $1.3 million in development costs is pending within the Administration. These funds were originally allocated to the over-the-horizon radar project and have been proposed to be nonrecurred in fiscal year 1990; and ongoing operating costs of the facility will be paid by the "Regular Air Program" line item of the Air Program budget.

REPROGRAMMING OF OVER-THE-HORIZON RADAR FUNDING

Senator DOMENICI. Last year, the subcommittee directed you to reprogram $14.8 million requested for the development of an over-the-horizon radar capability into other ongoing air surveillance activities. How do you plan to spend that $14.8 million, and when do you expect the reprogramming to come to the committee?

Mr. VON RAAB. Mr. Rosenblatt will answer that question.

Senator DOMENICI. Does that require a lot of detail, Mr. Rosenblatt? If so, you can submit it for the record.

Mr. ROSENBLATT. Not a lot of detail. Right now, we have forwarded this request to OMB and are waiting for their concurrence on it. However, I believe I am free to discuss what we have stated to OMB.

We have suggested reprogramming $6 million for support helicopters, $7.5 million for C^{3}I development, and $1.3 million for Albuquerque hangar expansion to accommodate the growth of personnel and also because the Air Force required that additional expenditure for certain electrical facilities; this adds up to $14.8 million.

Senator DOMENICI. I thought the final estimates on that hangar required $2.3 million instead of $1.3 million.

Mr. ROSENBLATT. It is my understanding it would be $1.3 million.

Senator DOMENICI. Would you mind confirming that one more time?

Mr. ROSENBLATT. I will be glad to, Senator.

[The information follows:]

FUNDING OF ALBUQUERQUE HANGAR FACILITY

The revised estimate is $2.3 million, of which $1.3 million has been reallocated from part of the cancelled over-the-horizon project and $1.0 million reallocated from the NOMAD line item within the O&M appropriation.

Senator DOMENICI. We have been around and around on that; we ought to get it finished one way or another.

DEPLOYMENT OF AIR ASSETS

On criteria that are being used to determine proper deployment of Customs air assets, what criteria do you use to determine the proper deployment of Customs air assets?

Mr. ROSENBLATT. Well, we have a strategy in the deployment, what we call modules, and we have eight air branches strategically located around the country from Homestead all the way over to San Diego.

Basically, what we want to do is have two interceptor aircraft, two tracker aircraft, two apprehension helicopters and support aircraft available to provide land support to our agents and investigators, again, from San Diego to Florida and in other locations where the air war may lead us.

Many times we also provide ground troops in support of the State and locals who help us as well. But we consider an interceptor a tracker, and an apprehension aircraft as one "bullet," and it takes two bullets for a module.

Mr. VON RAAB. In effect, we fill out the modules against the risk of smuggling in that area. We have identified the scheme for each

location and we fill them out against the risk as we see it through our intelligence and other sources.

Senator DOMENICI. Well, I am going to give you a detailed question on this data base that you use for that. It is rather confusing to me and I would like very much for you to explain it.

DEPARTMENT OF DEFENSE MISSION

Let me move to the Department of Defense and you all in terms of your efforts. Last year, the Department of Defense authorization bill designated DOD as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

Now, I understand that the Department of Defense is in the process of executing this new mission. What discussions have you had with the Department of Defense at this point, and are you confident that DOD does not intend to duplicate existing resources and that the interdiction assets of Customs will be fully utilized under this new plan?

Mr. VON RAAB. Over the years I have had extensive discussions with Paul Yost, who is the Commandant of the Coast Guard, which is a military service.

More recently over the past year, I have had periodic meetings with General Harries, who is the Vice Chairman of the Joint Chiefs of Staff, with whom I have discussed this at length.

Our own air officers and air program managers have spent many, many hours with their counterparts in the Defense Department, including in many cases onsite joint inspections of Customs facilities. I can't right off the top of my head give you a list of the names of the generals with whom we have dealt, but there have been many of them and they are high-ranking generals.

Just recently, I was invited for a general discussion with the entire Joint Chiefs of Staff at a meeting chaired by the Chairman of the Joint Chiefs of Staff at which we discussed at length the plans of the Defense Department for carrying out the mission as it was defined for them by Congress.

In any change in environment, someone who has been working in that area for some time is necessarily nervous that something will go by the boards when this happens. And as you all know, we have had some problems getting some enthusiasm out of the Defense Department in the past for the drug interdiction mission.

I must say that I was genuinely struck by the change of heart and the level of enthusiasm that was displayed by the entire Joint Chiefs of Staff for this new mission. It is amazing what a difference a law can make, and the Defense Department, without question, in my mind, is taking up this effort with enthusiasm and with professionalism, and I am quite comfortable that we are going to see a very good product coming out of the Defense Department.

There are issues that will have to be worked out between Customs, Coast Guard, and Defense, and I can tell you that during the discussion both Paul Yost and I told the Defense Department of the problems that we had had in merging the different approaches of what is largely a military organization, the Coast Guard, and a civilian investigative organization, which is the Customs Service.

The Defense Department listened and was most interested, and I can assure you that I believe that you will be proud of the job the Defense Department is going to do and the way the activities of the two will be merged.

Senator DOMENICI. I would submit to you it is not only a change of law, but I think it is a change in the Commander in Chief. I believe President Bush has been unequivocal about this.

Mr. VON RAAB. I agree.

Senator DOMENICI. And I think Defense will respond.

I have some more questions, but we have a new member and I am going to yield, and if you get to me for a few more, Mr. Chairman, at some point, I would be delighted.

Senator DECONCINI. We will.

Senator Kerrey, do you have any questions?

Senator KERREY. I won't take much of your time here, Senator.

Senator DOMENICI. Please, don't worry about it.

OPERATION ALLIANCE

Senator KERREY. Let me follow on Senator Domenici's question about Defense. As I said in my opening remarks, my interest tends to be a bit more toward the trade issues, but I do have some experience, albeit a bit in my past.

I once operated, for the purpose of training with the Border Patrol at night, and so I have got some familiarity with what it is like to try to interdict on the border down there.

I understand that you have an effort called Operation Alliance?

Mr. VON RAAB. That is right.

Senator KERREY. Could you describe that briefly to me and tell me what it is?

Mr. VON RAAB. Sure. Alliance is a joint effort among Federal agencies and State police departments, sheriff's departments, and municipal police departments to pool our efforts and bring them into a unified battle against the drug smugglers.

Senator KERREY. Who has operational control on the ground?

Mr. VON RAAB. The operational control is maintained by the agencies for whom the officers work, but the strategy is developed by a group of people.

Senator KERREY. State police, you mean?

Mr. VON RAAB. State police, Customs officials, Border Patrol, sheriff's departments.

Senator KERREY. Excuse me. Are the Border Patrol officers the ones you are referencing when you say the officers on the ground?

Mr. VON RAAB. They include sheriff's deputies, Customs agents, DEA agents, Border Patrol agents, et cetera.

Senator KERREY. Who is in charge, then, on the ground?

Mr. VON RAAB. Well, in a particular operation there would be a named individual in charge. It might be a DEA officer, it might be a Border Patrol officer, but they would be part of a special operation which would have been designed by Operation Alliance.

Operation Alliance does have a director who is responsible for the day-to-day pulling-together of the strategy.

Senator KERREY. Who does he report to?

Mr. VON RAAB. He reports to a committee, and that does two things. In some cases it produces special operations in which they will all work together and do something, maybe attack a particular section of border or run an air interdiction program or something like that.

At the same time, it tries to ensure that intelligence is passed among these agencies, that their communications are useful among all of them. It is a whole series of efforts to bring together the resources of all of those agencies.

PARTICIPATION OF OTHER AGENCIES IN OPERATION ALLIANCE

Senator KERREY. Can you comment, particularly with reference to the safe harbor that apparently Mexico is still providing, as to whether or not it would be beneficial to have other agencies represented on that committee, perhaps even a representative from State or a representative from the Department of Defense?

Mr. VON RAAB. Well, certainly, I think the Department of Defense, with its new role in detection and monitoring, and its active participation, probably would be a good idea.

As far as the State Department, I have never found the State Department useful at all in any of the drug efforts. I think they would just drag out the meetings. I do not feel they would make a significant contribution to this particular effort.

Senator KERREY. I appreciate that evaluation of the State Department's speed and their capacity, but nonetheless they do have a considerable amount of authority particularly when it comes to questions like the safe harbor status of Mexico.

Mr. VON RAAB. They have never attempted to exercise their authority in this area.

Senator KERREY. And that is a problem?

Mr. VON RAAB. It is a serious problem, yes.

Senator KERREY. Well, let me ask just one quick follow-up question——

Senator DECONCINI. Go ahead, Senator.

Senator KERREY [continuing]. Again, having to do with the military participation. It seems to me, particularly on a special operation, that it would be good to have them engaged. However, my own experience, though it is a couple decades old now, causes me to have some concern about the use of military personnel, knowing that the mission of the military operation is much different than the mission of your operation. It is a different kind of an objective.

Mr. VON RAAB. I probably have the same concerns that you have.

Senator KERREY. I once said that had I been deputized in 1969, we may have had a war with Mexico as a consequence of our operations. I mean, I got no law enforcement skills at all in the course of my training at the time.

Mr. VON RAAB. Well, the plans that Defense has are such that they would never be involved in an arrest situation. They are largely support troops; that is, they manage expensive or highly technical equipment to support Customs or the Border Patrol, as the case may be.

In some cases, they actually do some of the work necessary. For example, the National Guard has been very, very helpful and

useful in inspecting containers, but if anything were to be found that were wrong, Customs would not only take over; Customs is already supervising their activities.

So the scheme is such that there is no plan, and everyone is acutely aware of this, to engage any member of the Defense Department in any action that would put him physically in touch with one of the suspects that we were dealing with. That is the way it is working. I, too, share your concern.

The military is trained differently. When the military sees an enemy coming over the hill, they shoot him, and that is the way it works. When we see the enemy coming over the hill, we try to follow him and figure out how we can arrest him without hurting anyone around, ourselves or that individual, if possible. So it is a different attitude, but I think you would be pleased to see that the safeguards in the program are there to avoid that kind of a situation.

Senator KERREY. I trust I will be pleased.

MAP OF AEROSTATS

Senator DECONCINI. Thank you, Senator.

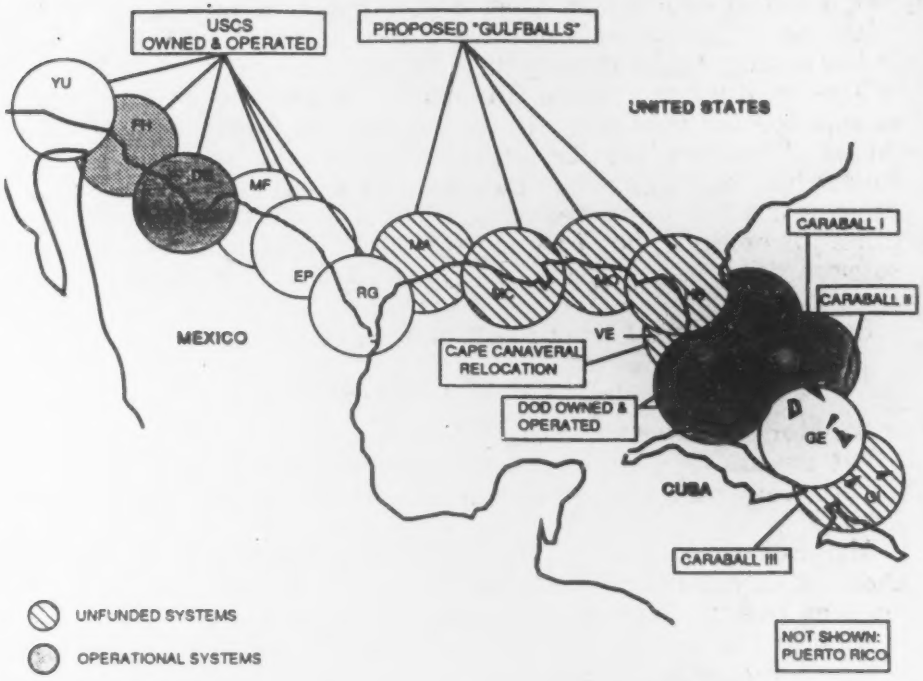
Let me ask, Mr. Rosenblatt—I gave you a map like this—is that an accurate portrayal of the areas where the aerostats are to be located?

Mr. ROSENBLATT. Yes, Mr. Chairman, with the understanding that the Great Inagua balloon, under one of the options we exercised on the contract, will be at the Rio Grande site.

Senator DECONCINI. Right. I just want to put that in the record.

[The information follows:]

LAND BASED AEROSTAT SITES: CURRENT AND PROPOSED



CUSTOMS

YU - YUMA, AZ Operational 4/89
FH - FT. HUACHUCA, AZ
DE - DEMING, NM
MF - MARFA, TX Operational 8/89
EP - EAGLE PASS, TX Operational 9/89
RG - RIO GRANDE CITY, TX Operational 12/89

AIR FORCE

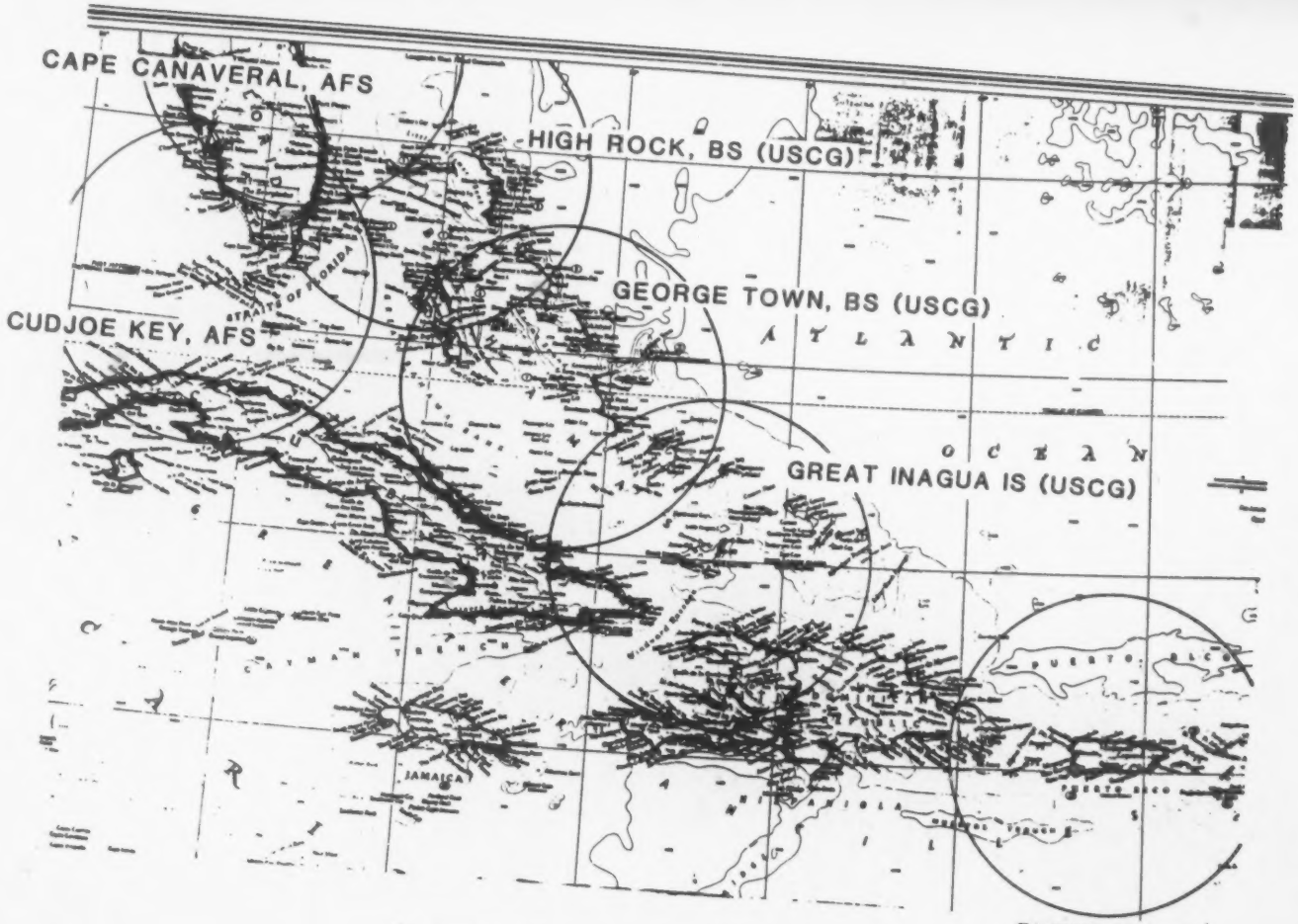
CC - CAPE CANAVERAL, FL
CK - CUDJOE KEY,FL

COAST GUARD

MA - MATAGORDA,TX
MC - MORGAN CITY,LA
MO - MOBILE, AL
HB - HORSESHOE BEACH,FL
VE - VENICE, FL
GB - GRAND BAHAMAS
GE - GEORGETOWN Operational 9/89
GI - GREAT INAGUA

GULF AEROSTAT RADARS
UNITED STATES
MORGAN CITY, LA
ALABAMA PORT, AL
HORSESHOE BEACH, FL
MATAGORDA, TX
VENICE, FL
BAHAMAS
MEXICO
UNFUNDED
OPERATIONAL (AF)
CUDJOE KEY, FL
CUBA
JAMAICA

SOUTHWEST AEROSTAT RADARS



CARIBBEAN AEROSTAT NETWORK

LOCATIONS OF AEROSTATS

Mr. VON RAAB. Removal of one of these balloons to the west coast—is that what that reflects?

Mr. ROSENBLATT. I am not sure; the potential is, but it is not funded yet.

Mr. VON RAAB. I understand.

Mr. ROSENBLATT. The potential is to move the Canaveral balloon over to Venice.

Mr. VON RAAB. I can't quite tell from this, but we don't want you to think that we are not trying to keep Canaveral there.

Senator DECONCINI. Well, maybe you want to look at that map and make any corrections to it.

Mr. ROSENBLATT. There is no funding for that.

Senator DECONCINI. Yes.

Mr. VON RAAB. But that is the ultimate strategy.

Senator DECONCINI. At the bottom of the map, they are marked "funded" and "unfunded."

Mr. VON RAAB. It seems to be accurate. It is just that they all overlap a little bit in that area.

Senator DECONCINI. Thank you.

METHODS OF COCAINE SMUGGLING

The news program earlier this week, Commissioner, made a bold statement that most cocaine comes into the United States through cargo. Can you comment on how much cocaine you believe comes into the United States through cargo and how much comes in through the Southwest border and/or any other places? You may provide that for the record.

Mr. VON RAAB. Well, cocaine doesn't start in one place and come in that way. First of all, most cocaine leaves Colombia by air, no question about it. So that statement is incorrect to start with.

Most cocaine does not enter the United States by air anymore because they are afraid to fly it into the United States. A lot of cocaine does enter the United States by air through areas which are not yet protected by our aerostats.

Senator DECONCINI. What about air cargo?

Mr. VON RAAB. We see a substantial amount of cocaine coming in through air cargo. We made some good seizures in that area, in some cases thousands of pounds. It is very difficult to determine at any particular time how the cocaine is making the last trip into the United States because they are always dodging and weaving and trying to come up with the easiest way to come in.

I would guess right now that probably something like 50 percent of the cocaine is coming into the United States in commercial cargo; some 20 percent or so is coming in across the Mexican border by air. Approximately 20 percent is coming across the Mexican border by land, and the remainder is coming in by sea, for example, pleasure craft with false compartments.

But this is changing. It changes not only from year to year; it changes from month to month.

Senator DECONCINI. Yes; last year, I think the figure you estimated was 35 percent from the Southwest border. Do you think that level is down now?

Mr. VON RAAB. No; I think the Southwest border is probably a worse problem today than it was last year.

Senator DECONCINI. Worse now than last year?

Mr. VON RAAB. Yes; because our air defenses are getting better in the east and that is driving it west.

Senator DECONCINI. West, yes.

Mr. VON RAAB. Our marine defenses have improved in the east as well.

TRANSFER OF E-2C'S

Senator DECONCINI. I noticed, Commissioner, your budget includes a proposed transfer of two E-2C's and $10.4 million in operating expenses to the Coast Guard in fiscal year 1990. It is my recollection that the Customs Service entered into a memorandum of understanding with the Coast Guard which called for the transfer of these two E-2C's to the Coast Guard when the Customs Service had its four P-3 AEW's on board and operational.

If no funds are provided in fiscal year 1990 for acquisition of the two P-3 AEW's, why are the E-2C's going over to the Coast Guard?

Mr. VON RAAB. They are going over for two reasons. One is that OMB determined that they would go over, which is a powerful reason. I don't want to be critical of OMB for transferring them from the Customs Service.

As Senator Domenici indicated earlier, the E-2C's are terribly expensive to operate. The E-2C's that we happen to have are also dogs; they are old and hard to maintain.

So we are not uncomfortable with having these transferred. We believe our moneys will be spent better in the P-3 AEW program and the aerostats.

CUBA/HAITI THREAT ASSESSMENT

Senator DECONCINI. Thank you. What is your threat assessment as to narcotics trafficking from Cuba and Haiti? Has it increased?

Mr. VON RAAB. Do I have specifics on that? Let me just say that the Haitian situation is a changing one. When the government changed over, we saw an enormous increase in drugs coming out of Haiti, and we still do. As a matter of fact, we have a specific program in Miami, called River Watch, that is targeted at drugs coming out of Haiti in freighters.

I would say that the threat of drugs coming out of Haiti is very high, and it is a serious problem facing the United States. I would be happy to give you more specifics in terms of threat levels, but overall it is substantial. As we improve in the Bahamas, they drop back to Haiti.

Senator DECONCINI. Can you please supply that for us.

[The information follows:]

CUBA/HAITI

It is more practical to address each of these two countries separately.

Cuba is not a drug producing country. To the best of our knowledge, neither cultivation nor processing of drugs takes place there. There is no indication that Cuba has a major drug abuse problem. The role of Cuba is primarily geographical. It sits crosswise between South America and the southeast United States. The current status of Cuban/American relations precludes both the U.S. Coast Guard and U.S.

Customs Service from entering Cuba's airspace and territorial waters. This creates a "safe zone" for drug smugglers. Drug smugglers using general aviation aircraft overfly Cuba, utilizing the two existing civil air corridors. Drug loads are airdropped to waiting "go fast" boats either in Bahamian, Cuban, or U.S. waters. If pursued, the drug smuggler simply can reenter Cuban airspace, overflying Cuba southbound, effectively terminating any Customs pursuit. Drug smugglers utilizing fishing vessels, small freighters, or other vessels not engaged in commercial shipping have used Cuban waters as a safe haven, staying beyond the reach of pursuing Coast Guard Cutters. While there have recently been some well-publicized anti-drug enforcement actions taken by the Cuban Government, the Cuban Government has more often taken a passive stand in relation to drug smugglers by continuing to allow the overflight by drug-laden aircraft and not interfering with drug laden vessels taking refuge in Cuban territorial waters. Allegations that Cuban Government officials have actively assisted smugglers continue to surface.

Haiti is not a significant drug producing country. While some minor marijuana cultivation occurs, this does not present a significant threat. Haiti's role in the drug trafficking arena is that of a drug transit country. The economy of the country remains in shambles. Haiti's location, on the Windward Passage between South America and the southeast United States, places it at an important crossroads along one of the more important cocaine smuggling routes. Colombian drug traffickers have established a base in Haiti. Cocaine arrives from Colombia both by general aviation aircraft and by various types of vessels. It is smuggled on to the United States in a variety of ways, one of the most important being small general cargo vessels known in the trade as "Haitian Freighters" that carry small shipments of primarily low value inter-island cargo throughout the Caribbean. A second important method is in sea containers, either concealed in the cargo or its crating, or in the container itself. General aviation aircraft and non-commercial vessels present a threat of cocaine smuggling from Haiti. All of these conveyances have an easy route to either Puerto Rico or the South Florida area.

Customs is actively targeting commercial conveyances and cargo arriving from known high-risk drug source and transit countries, including Haiti. Cargo Enforcement Teams (CET) and Manifest Review Units (MRU) are keenly aware of the cocaine threat represented by Haiti. Close coordination between these Inspection & Control units and the enforcement offices located in the same port areas assures that all available information is brought to bear on the cocaine smuggling.

DRUG TRAFFICKING THROUGH CUBA

Mr. VON RAAB. As far as Cuba is concerned, we have seen continuously increasing traffic coming out of that country. In many cases these are planes that just flew over Cuba, and in some cases they are planes that have landed and maybe refueled, and in some cases they are boats that have used Cuba as a place to spend the night.

So on a chart of air smuggling, you would definitely show arrows running across and out of Cuba. It has increased in significance as a drug transshipment area.

PRESIDENT BUSH'S BUDGET

Senator DECONCINI. President Bush's budget proposal, to change the subject a little bit, as I understand it, includes an additional $10 million for Customs drug enforcement activities.

Could you give us some details on how this $10 million will be allocated?

Mr. VON RAAB. The $10 million you refer to is broken into two parts: $7 million is to increase our level of inspection of containers, which would allow us to put more inspectors to work on containers; $3 million would be used for our international money laundering efforts, similar to and a follow-on of the C-Chase case or the BCCI case.

COMMERCIAL PROGRAM REDUCTION

Senator DECONCINI. Thank you. One other question in this area. We notice that $21 million was requested for the containerized cargo initiative in the Reagan 1990 budget for greater inspection of cargo containers coming into this country. I understand this program will be increased by another $7 million under President Bush, as you pointed out.

I am very concerned, however, that the administration proposes to fund this initiative by reducing the commercial program by $21 million and 396 FTE's. As you know, the Appropriations Committee, in fiscal year 1989, increased commercial operations by 640 FTE's because of our continued concern over the need to facilitate the movement of commercial goods.

FISCAL YEAR 1989 COMMERCIAL POSITIONS

What did the service do with the additional 640 FTE's funded in the 1989 appropriations bill? Have they been hired?

Mr. VON RAAB. There was not actually enough money in the fiscal year 1989 budget to hire the full 640 over our fiscal year 1988 end-of-year staffing.

Senator DECONCINI. There was not?

Mr. VON RAAB. No.

Senator DECONCINI. How much did we give you for that?

Mr. VON RAAB. We actually allocated 269 positions.

Senator DECONCINI. That is what the committee——

Mr. VON RAAB. No; the number was 640, but because of our aggressive hiring program, we entered fiscal year 1989 with 371 more employees than our fiscal year 1988 base. As a result, we could only allocate 269 more positions.

Senator DECONCINI. There wasn't money for it?

Mr. VON RAAB. We didn't have the money to hire more than 16,739 FTE's.

Senator DECONCINI. There wasn't money for it?

Mr. VON RAAB. No.

Senator DECONCINI. There was money only to hire 269?

Mr. VON RAAB. We were able to hire 269 this year, given our on board staffing at the beginning of the year, and we have undertaken a number of budget-crunching exercises in order to authorize the hiring of 269 people.

Senator DECONCINI. Was that caused by the pay raise absorption or other reasons like that?

Mr. VON RAAB. That is one of a number of reasons.

Senator DECONCINI. I would like to have the details of what we authorized and what we appropriated and why it wasn't enough.

Mr. VON RAAB. OK, we will do that for you.

Senator DECONCINI. Can you give us that, please, so I can understand why you are short a little better?

Mr. VON RAAB. Yes.

[The information follows:]

FISCAL YEAR 1989 AUTHORIZATION AND APPROPRIATIONS

For fiscal year 1989, the Congress appropriated $1,033,911,000 for Customs Salaries and Expenses and authorized a base staffing level of 16,739 FTE, an increase of

640 FTE over the previous year. Responding to Congressional requirements, Customs has undertaken, despite the complexities of recruitment, a full-scale allocation of these increased resources, which we believe will meet our staffing goals.

HANGAR AT DAVIS-MONTHAN AIR BASE

Senator DECONCINI. I have one last question, and then I will yield to my friend from New Mexico. I received a copy of—and this refers to the Customs hangar at Davis-Monthan Air Force Base—a letter sent by the Air Force to the chairman of the Military Construction Subcommittee indicating that Customs would be given 30 days' notice to vacate hangar 1144 at Davis-Monthan Air Base.

If Customs was required to move from the Air Force hangar this year, what impact would this move have on the Tucson Air Branch maintenance mission?

Mr. VON RAAB. Mr. Chairman, with your permission, Mr. Asack, who is in charge of our air program, is probably the best individual to answer this question.

Senator DECONCINI. Mr. Asack, can you help us out?

Mr. ASACK. Yes, sir; the Air Force is currently providing access to our people to look at some old facilities on the current base. There is a very large hangar down at the other end of the air strip.

The Air Force has said that they will work very hard to make our people happy.

Senator DECONCINI. So the Air Force, in essence, has rescinded the 30-day——

Mr. ASACK. Well, they have given us the notice. As far as I know at this moment, we are not moving out, but they are working to put us into a larger hangar at the other end of the facility.

Senator DECONCINI. So they are cooperating to find you another place?

Mr. ASACK. Yes.

Senator DECONCINI. We have a letter dated February 21, I am advised, rescinding the 30-day period of time until the Air Force goes out to Arizona to review this matter. What you are telling me is right now your people out there are working with the Air Force on another location?

Mr. ASACK. Yes, sir.

Senator DECONCINI. Very good. I wanted the record to show that we appreciate the Air Force's cooperation with Customs, and also the Customs effort in this area.

Senator Domenici.

COMPETITION FOR SEIZURE CREDIT

Senator DOMENICI. The chairman has long been an advocate, Commissioner, of the drug czar. We put that into law, finally; we are going to have one soon. Let me go through a little scenario with you that, while I am not personally familiar with it, I think is a growing problem. I believe it is going to end up, if things work right, in the drug czar's lap.

But it seems to me in evaluating success as between the competing line agencies, be it DEA, Coast Guard, or yourself, that as we try to measure the operating effectiveness of each and we proceed out over a number of years with increased funding in an effort to

interdict, I can see a huge new combat zone between the line agencies in an effort to prove up effectiveness.

And one of the principal ingredients being used to assess operating effectiveness is the statistics on seizures. Now, I am not adverse to doing things American style, which is to measure effectiveness by success, but if you take an area where you are operating, Customs is operating, the Coast Guard is operating, and DEA is operating, like the Bahamas, and you have surveillance capability and interdiction capability and so do other line agencies, I believe there is going to be a war to claim effectiveness based solely on seizures. And let me just give you a hypothetical.

You determine the target with your equipment. Somebody is going to be deciding who interdicts and it may be not you; it may be the Coast Guard, and that is as it should be. But if we measure the effectiveness for purposes of budgeting and appropriating and success of seizures is the rule, I believe those entitled to credit are apt to get less credit than they are entitled to. And I am speaking of credit here in the real sense, effectiveness credit.

It seems to me that this could lead to all kinds of things. It could lead to waste of money on the seizure side because in claiming the effectiveness, you could put up a plane to track the suspect and let us say Coast Guard is closer and they make the interdiction, they get credit for the whole thing, and then they could waste a lot of money in that seizure exercise and claim it is the seizure exercise that justified the expenditure.

Now, far be it from me to want to do anything less than be objective about success, but I would like your thoughts about whether this problem that I am envisioning here is a reality. Could it become a serious problem?

My hunch is that it could. My conviction is that somebody has to look at this from another angle or we are just going to have interdepartmental, interagency kind of rivalries determining much of this, and I don't like to see that happen because I don't think it yields good results. I think we end up with fabricated statistics.

I guess what I am saying is that something other than seizures statistics where there is a multiagency involvement ought to be used to measure effectiveness.

JOINT OPERATIONS OF C^{3}I'S

Mr. VON RAAB. First, I am highly confident that this phenomenon will not develop between the Coast Guard and the Customs Service, and the reason for that is simply the C^{3}I's. The C^{3}I's are managed effectively jointly by the Customs Service and the Coast Guard.

They make the determination—rather they will be, in the case of the East, and the West is already operating—as to the resources that are sent out to do the job, to interdict. And for that reason, the Coast Guard and Customs have really pooled their resources here and I don't see that there will be that kind of battle over seizures.

There may be some posturing in committees as to whose seizure is what. I think that is just the nature of the political game in

Washington, but I do not see it as having any detrimental effect on the operational effectiveness of Customs or Coast Guard.

And I think programs like Operation Alliance in the Southwest which force cooperative efforts will have the same effect on the interdiction agencies, to cause them to pool their resources and to present their statistics collectively.

Senator DOMENICI. Well, Commissioner, let me just say I don't usually disagree because you all have far more technical knowledge than I, but I believe on this one when you get down and talk to your people, including the very graphic example of the Bahamas, I think you are going to find it is already a problem.

For instance, in the Bahamas we already know that a C³I may track for 8 hours and the net result is they find that the source of the contraband——

Senator DECONCINI. You mean a P–3.

Senator DOMENICI. No; he was talking about the C³I's.

Mr. VON RAAB. C³I's.

Senator DECONCINI. OK.

Senator DOMENICI. And he was saying that because they are jointly operated there is going to be joint credit, and I am suggesting that there is another player.

Mr. VON RAAB. Well, I have had a very unpleasant exchange with our Ambassador to the Bahamas on this issue. I have specifically asked that the Bahamian operation be put under the C³I solely to avoid this problem.

Senator DOMENICI. Let me just give you the conclusion. You do 8 hours of work. We are paying money for you; we are trying to justify that. It is forced down. DEA makes the seizure. In seizure effectiveness, DEA gets credit for the entire seizure.

And I am telling you this is going to be a very serious problem as everybody gets into this in a big way, Coast Guard versus you, versus DEA, versus somebody else, all up here telling us we are the ones getting the job done.

I just hope you will look at it. I think it ends up with something that an impartial entity looks at and says you can't use this seizure as the sole, major measure of effectiveness.

I just hope somebody will look at that because I think what is going to happen is it is going to cause rivalry and it is going to cause improper assessment of effectiveness.

Mr. VON RAAB. Well, I am not selling your theory short at all. I mean, you are absolutely right to be worried about this. It is a problem in the Bahamas because of the fact that there is a split command, and that is that the Bahamian operation is basically run out of a separate command from the rest of the United States, and that does lead to this rivalry and collection of separate statistics. I think that should be corrected.

I would go further, however, to say I am concerned that a more damaging debate could take place with respect to interdiction versus education, versus law enforcement in the domestic environment.

Senator DOMENICI. I agree.

Mr. VON RAAB. And programs like this NBC program are just what we don't need to mislead the American people as to what is happening out there.

MONEY LAUNDERING

Senator DOMENICI. I just have two left and, Mr. Chairman, I am going to submit a series of them.

Did you comment prior to my arriving on this Associated Press story about drug profits reported laundered by jewelers? That was a Wednesday story.

Mr. VON RAAB. No, I didn't.

Senator DOMENICI. Justice and Treasury, a $1 billion laundering case; the conspiracy involved bank accounts in New York, the Bahamas, and other countries. What information might you provide to us on this case?

Mr. VON RAAB. That was the announcement of a very, very significant and huge money laundering investigation which was managed jointly by IRS, DEA, Customs, and FBI, which successfully broke apart, at least to our knowledge at that time, the largest money laundering conspiracy in the United States, not only capable of, but probably having laundered as much as $1 billion in the past year or so.

And it is a great example of the improvement and experience that the Federal agencies have gained over the past 7 or 8 years in dealing with money laundering.

The significance of the case is two-fold. First is its size. It literally represents an agency that laundered 1 percent of all the money being laundered in the United States.

Second, if you look at the schemes that they were employing to launder this money, you would realize the lengths to which they have to go now because of the money laundering laws and the Federal agencies' expertise. It represents a milestone in a very positive development of money laundering investigation as an enforcement tool.

TRAINING

Senator DOMENICI. Mr. Chairman, you joined me on February 1, or I joined you—excuse me—in a letter to the Commissioner with reference to the Federal Law Enforcement Training Center [FLETC] and its satellites.

Senator DECONCINI. I joined you.

Senator DOMENICI. All right.

Commissioner, you haven't had enough time to necessarily respond to this as to how you intend to pursue your advanced training. I just want to say to you that we went through a lot of effort up here to centralize and yet broaden the capability of FLETC for training.

And we did, I believe, put in a prohibition—at least we intended it—that agencies don't go out and contract for or create independent training activities, but rather that they contract with and negotiate with FLETC to get that done.

Mr. VON RAAB. That is right.

Senator DOMENICI. I surely hope that with all the effort we have gone to to satisfy the Secretary of the Treasury, who does not want a proliferation of training facilities and thus agreed to increased capacity, including a new center down in Artesia, NM, that you will abide by this, not only the letter, but the spirit, and make

every effort to use the facilities we are funding rather than doing anything independent even by way of independent contract.

Mr. VON RAAB. First, I am sure you are aware we are in day-to-day contact with your staff director, Becky Davies, and Patty Lynch. We are aware of your concerns. I have read your letter.

Senator DOMENICI. Good.

Mr. VON RAAB. I read all your letters. [Laughter.]

We are in discussions with Charles Rinkevich, who is head of FLETC. The assistant secretary, Mr. Martoche, has taken up this issue. He is, in effect, conducting discussions among the three of us.

We have evidenced our need to FLETC for this type of training. Let me assure you that there is no plan, not even a desire, to run a separate, out-from-under-FLETC training effort.

I think the question right now is probably the degree to which the existing facilities at Glynco are capable of meeting the training needs or whether we would have to rely on a larger area at some other place because of the nature of the needs.

And I don't want to prejudge any of this because Mr. Martoche is working on it. But, yes; I am aware of your letter, and the activities that we have underway at Benning are strictly to support our firearms maintenance program; that is, to make sure our firearms work properly.

And we are not only under explicit instructions from you, but from me and from Mr. Martoche, that we are to do no training that is not fully supported by the FLETC.

MILITARY INVOLVEMENT IN OPERATION ALLIANCE

Senator DOMENICI. Mr. Chairman, I want to make one last observation for the record—I should have made it when our new Senator was here—with reference to Operation Alliance in our State and the military.

Most of us have thought of the military principally as an additional interdiction capability. There is a proposal in our State that I think is very exciting. We have a very, very large computer capacity at the Kirtland Air Force Special Weapons Laboratory.

The State of New Mexico, as a member of the alliance, has brought in the other agencies of the Federal Government and they are making a request that the Federal Government's military involvement there be the use of the computer capability to put together a centralized information system for everybody, which was very difficult to do in the past.

FBI isn't sure they want to; DEA says yes, and then Customs isn't sure. And it seems like this one might fall together.

Senator DECONCINI. Is this intelligence-gathering?

Senator DOMENICI. Yes; and putting together the information that intelligence has gathered in a centralized way. With the Department of Defense being the new player, and they are perfectly capable of being secret and being discreet, it seems like this one just might be the catalyst for everybody agreeing to one central system.

Senator DECONCINI. I would ask the Senator a question. Is DOD interested?

Senator DOMENICI. Very interested, no reluctance, very excited about it. They know they have a great capacity. They understand the national desire and the President's desire that they participate, and they are saying, you know, look, with very little added personnel, we have these new super-computers; we might be the center and disseminate the information.

I think the activities may be much broader where Defense could help us than just interdiction.

Senator DECONCINI. Thank you.

I have some questions from Senator Mikulski, Commissioner, that I will submit to you at the end of the hearing to answer for the record. I will submit a number of questions myself.

MEXICO CERTIFICATION

Commissioner von Raab, I will ask you one last question. I have a letter from you last year regarding certification of several countries, including the Bahamas and, in particular, Mexico.

I would like to quote from the letter that you wrote to me regarding Mexico. "Corruption has effectively precluded our working with Mexican authorities on narcotic interdiction and inordinately increased the level of resources we are forced to commit to the Southwest border. Further, the amount of drugs entering the United States through Mexico continues a steady climb," end of quote.

With respect to Mexico, Commissioner, in your judgment and that of Customs, has anything changed in the past 12 months?

Mr. VON RAAB. The President has changed in the past 12 months.

Senator DECONCINI. And that is it. Will you, or have you sent letters to the State Department giving your advice and counsel in the certification process?

Mr. VON RAAB. Under the law, we have provided information, advice—I am not quite sure exactly how I would characterize it—to the State Department with respect to their proposed report on certification. We have done that.

Senator DECONCINI. Is that available to be shared with us?

Mr. VON RAAB. I believe so.

Senator DECONCINI. Would you please find out?

Mr. VON RAAB. Yes.

Senator DECONCINI. I would like to see a copy of that letter, if you would share that with us.

[The information follows:]

FOREIGN GOVERNMENT COOPERATION IN NARCOTICS CONTROL

The Commissioner's letters to the State Department commenting on foreign government cooperation in narcotics control will be provided under separate cover.

SUBMITTED QUESTIONS

Senator DECONCINI. I have no further questions. I want to thank you and your staff. As usual, you were well prepared, and we will look forward to receiving your answers to the questions we will be submitting to you to answer for the record, as well as those which we asked you to get back to us on.

Mr. VON RAAB. Thank you.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR DECONCINI

EFFECTIVENESS OF CUSTOMS ROLE IN THE DRUG WAR

Senator DeConcini: Once Customs has all of its aerostats in place and has acquired all of the P3AEWs, modified Citations, ground-based radar and other assets, will we have provided an effective border deterrent for the illegal entry of narcotics aircraft?

Commissioner von Raab: In accordance with the National Air Strategy, the Customs Service goal is to achieve a substantial deterrence to smuggling by general aviation aircraft by 1992, assuming full implementation of the National Air Interdiction Strategy. We are about to commission a study specifically designed to measure, if possible, the potential deterrence of all our air interdiction assets. We will apprise you of the results once they become available.

AEROSTAT PROGRAM

Senator DeConcini: Let's talk about the Aerostat Program for a moment. Could you give us a brief rundown on how many balloons are operational, how many are in the pipeline, and how many have yet to be funded? Could you also provide the proposed dates for completion of each aerostat?

Commissioner von Raab: There are presently two Air Force-operated aerostats in operation at Cape Canaveral AFS and Cudjoe Key AFS that provide data to C3I East. The High Rock, Grand Bahama Island system, originally acquired by the Customs Service, was transferred to the Coast Guard in July 1988. The Ft. Huachuca, AZ, site began 24-hour-a-day operations on August 2, 1988. The Deming, NM, site completed acceptance testing and achieved Final Operating Capability (FOC) on March 22, 1989. Final Operating Capability for the following sites is currently estimated as follows: Yuma, AZ, July 1989; Marfa, TX, September 1989; George Town, Great Exuma Island, BS, November 1989; Rio Grande City, TX, January 1990; and Lajas, Puerto Rico, March 1990. The schedule for the third Caribbean system, currently planned for Great Inagua Island, BS, is pending, subject to negotiations and approvals by the U.S. Federal Aviation Administration and final site selection procedures to include detailed topographic surveys and cost estimates of candidate sites.

AEROSTAT DOWNTIME

Senator DeConcini: The Fort Huachuca balloon has been operational since last June. It has been up about 45 percent of the time. The Deming aerostat, installed last December, is still in the test phase and it has been up about 53 percent of the time. The Cudjoe Bay balloon has had the highest percentage rate of operational capability for FY 1988; as I understand it, Cudjoe Bay has been up about 65 percent of the time. What specific factors account for the downtime for each of these balloons?

Commissioner von Raab: The major factors in the FY 1988 downtime for the Ft. Huachuca Aerostat have been maintenance and other contractually authorized down time relating to system modifications and equipment failures such as a high voltage cable failure and problems with the doppler predictor. The system was authorized down time of approximately 135 hours in September 1988 for evaluation by the USAF 84th Radar Evaluation Squadron. It should be noted that the Ft. Huachuca system did not attain 24-hour-a-day operational status until August 2, 1988; and prior to the start of the operations and maintenance phase in June 1988, the system's Automatic Rapid Deflation System was completely redesigned.

The major factor with regard to the downtime experienced by the Air Force System at Cudjoe Key in FY 1988 was weather at a 25 percent rate.

The Deming, NM, site is undergoing acceptance testing and by contract must be authorized downtime for equipment modifications and testing.

Senator DeConcini: What percentage of the time were the aerostats down because of weather and what percentage of the downtime was due to maintenance and repair?

Commissioner von Raab: For FY 1988, the two Air Force, one Coast Guard and one Customs operational aerostats were on an average:

Up and operating.....51%

Down for weather.....24.25%

Down for maintenance.....18.25%

Down for other administrative contractual or security reasons.....6.5%

Senator DeConcini: What happens when the aerostats are down? Are you actually deploying sufficient airborne radar to surveille those areas lacking radar coverage?

Commissioner von Raab: At the present time, there are only two aerostat systems in place along the Southwest border and Customs can not deploy sufficient AEW aircraft to fill this radar void.

P-3/E-2C PATROL TIME

Senator DeConcini: What percentage of the time are the P-3s and E-2Cs patrolling the Southwestern border?

Commissioner von Raab: The goal is to provide the Southwest border with 50 percent of the patrolling missions. Presently, 49 percent of all patrol missions are dedicated to the Southwest border.

Senator DeConcini: How would this patrol time increase if you had 4 P-3 AEWs?

Commissioner von Raab: Each AEW acquired represents on average an additional 100 hours per month of radar patrol time.

AEROSTAT DOWNTIME

Senator DeConcini: Are you seeing an increase in suspect aircraft across the border when the aerostats are down?

Commissioner von Raab: No. Information from Intelligence indicates that whether an aerostat is up or down it has not had a "valve/faucet" effect on private air smuggling. There are clear indications that private aircraft smugglers are avoiding the 300-mile area of radar coverage. Also intelligence indicates that they will turn to other means of smuggling, such as cargo containers.

AEROSTAT SEIZURES

Senator DeConcini: What are the seizure statistics from the aerostat for 1988?

Commissioner von Raab: The seizures from the aerostats are as follows:

Description	FY 1987	FY 1988
Cocaine (lbs)	0	1,225
Marijuana (lbs)	1,300	33
Aircraft	11	9
Arrests	26	28

The cocaine seizures and arrests were up in FY 1988, but marijuana and aircraft seizures were down compared to FY 1987.

COCAINE SEIZURES

Senator DeConcini: What are your overall statistics for cocaine for 1988?

Commissioner von Raab: In FY 1988, Customs made 2,340 seizures of cocaine totaling 139,958.3 pounds. Compared with FY 1987 when we made 2,153 seizures of cocaine totaling 87,897.6 pounds, this represents an 8.7 percent increase in the number of seizures and a 59.2 percent increase in the amount of cocaine seized.

GROUND-BASED RADAR

Senator DeConcini: I understand there are several FAA and DOD ground-based radar along the Southwestern border. How effective are these radar in detecting suspect aircraft?

Do you get any useful information from them when the aerostats are down?

Commissioner von Raab: Customs receives very little useful low-flyer information from these Southwest Border FAA/DOD radars regardless of aerostat operations.

GULF AEROSTATS

Senator DeConcini: What is the status of the proposal to fund four aerostats in the Gulf area and what are the costs of the various alternatives under discussion?

Do you have any intelligence information to support the assertion that aircraft entry through this area is increasing and radar coverage is critical?

Commissioner von Raab: The Customs Service, through The Interdiction Committee, has requested DOD funding for four Gulf systems and the relocation of the Cape Canaveral system to the west coast of Florida. A total of $88.5 million would be required to accomplish this plus fund the Great Inagua system and marine enhancement at High Rock.

Gulf Coast intelligence provided by EPIC indicates that air smuggling activity in Central America and the Yucatan Peninsula area of Mexico has increased in 1987 over 1986 and remains active.

Senator DeConcini: Until we have had an opportunity to fully assess the effectiveness of the southwest border radar program, do you think it would be wise to move ahead on the Gulf?

Commissioner von Raab: In order to provide the maximum effect in the shortest time frame, the Gulf aerostats should be pursued as vigorously as funding permits. One could adopt a less aggressive approach that would provide Gulf aerostat funds contingent on the success/results from the Southwest border net and Southeast aerostats net, thereby minimizing a delay in implementation.

DRUG INTERDICTION COST/BENEFITS

Senator DeConcini: Have you given any thought to at what point the costs of drug interdiction efforts will outweigh the benefits derived?

Commissioner von Raab: The original goal of the drug interdiction strategy is to achieve a significant reduction in the volume of drugs being brought in by any conveyance. While we are an important player in that strategy, we believe any benefit/cost determination should lie with the Drug Czar whose mission includes developing a national drug strategy.

FY 1990 AIR BUDGET

Senator DeConcini: Is your FY 1990 budget sufficient to allow you to reach your goals by FY 1992? If not, what additional funding is necessary and for what purposes?

Commissioner von Raab: No. However, we are awaiting the input of the Drug Czar on our air strategy before we decide what additional funding to pursue.

ANTI-DRUG ABUSE ACT OF 1988

Senator DeConcini: An additional $8.5 million was appropriated under the Drug Bill for your Salaries and Expenses account. Were these funds used to hire additional FTEs to support the Customs Service for inspection and control activities? If not, how were they used?

Commissioner von Raab: The Drug Bill funding was not used for any additional FTEs. The $8.5 million was allocated as follows: firearms and training ($2,000,000), TECS terminals and network ($800,000) including modification of machine readable document readers, inspectional communications ($250,000), detector dog teams expansion ($1,500,000), foreign drug intelligence and investigations ($1,250,000), marine BLOC operations ($800,000), and drug interdiction special operations ($1,900,000).

Senator DeConcini: I notice that both of these amounts appear as nonrecurring items in your FY 1990 budget. First of all, what was your request to the Department for items authorized in the Drug Bill, and secondly, what items did the Department include in its request to OMB?

Commissioner von Raab: The Drug Bill had not been enacted at the time of submission of either budget request.

DRUG-RELATED FUNDING

Senator DeConcini: OMB has provided the Subcommittee with a breakout of funding for drug-related activities for all Federal programs comparing the FY 1990 proposed budget to the enacted FY 1989 levels. The OMB document shows an FY 1989 level of $444 million in Budget Authority for drug-related activities for the Customs Service compared to a level of $441 million in BA for FY 1990. Do you agree with those numbers?

Commissioner von Raab: Each year, OMB estimates the total Federal Drug Budget known as the Drug Cross Cut. These estimates are from this Cross Cut. Customs and other agencies submit data to OMB who prepares the final estimates. We can reconcile the OMB estimates with our initial estimates. The primary changes are the inclusion of the Bush Initiatives, the Forfeiture Fund, and some minor changes in prorated amounts.

AIR INTERDICTION NONRECURRING COSTS

Senator DeConcini: Your proposed FY 1990 budget for Operations and Maintenance in the Air Interdiction Program shows a decrease of approximately $21 million from the FY 1989 enacted level. You account for that reduction with $40.8 million in nonrecurring costs for Citation modifications, radar sensor spares, over-the-horizon radar, the Albuquerque hangar and Drug Bill activities. Could you go through each of these items for the Committee and explain why these items are being shown as nonrecurring expenses in FY 1990?

Commissioner von Raab: The funding in FY 1989 for the Citation modifications, radar sensor spares, over-the-horizon radar, Albuquerque hangar and Drug Bill activities is for onetime procurement, development and installation of enhancements to the Aviation Program above the base program. These items are not considered recurring expenses for the program to maintain the current level of operations; and, as part of the budget formulation process, are nonrecurred. However, once these items are acquired, the additional costs to maintain and operate the assets are included in the budget requests and incorporated in the base. The 1990 Budget includes appropriate levels of funding to fully operate these new assets.

OVER-THE-HORIZON RADAR FUNDING

Senator DeConcini: How is the $14.8 million, originally planned for the Over-the-Horizon Radar being spent?

Commissioner von Raab: Our proposed reallocation of the $14.8 million is as follows:

$6.0M Procurement of support helicopters
$7.5M Command, Control and Communications Intelligence Centers (C3I)
$1.3M Albuquerque hangar expansion

The $7.5M for the C3I Program will be used to partially fund the following:

a. Systems Engineering and Technical Assistance (SETA) ($1.6M);

b. The Blue Lightning Operations Control Center (BLOCC) relocation from the Federal Building in Miami to Richmond Heights prior to the completion of the new C3IE building, for rent of trailers for office space ($14K);

c. Anticipated cost for prime contractor, Telephonics (Eaton), for the completion of C3IE ($3.0M);

d. Completion of Customs National Aviation Center (CNAC) ($1.0M);

e. Operations and maintenance costs for all three facilities once Telephonics has completed the C3I installations of C3IE and CNAC ($2.0M);

f. Co-maintenance agreement between Customs and Telephonics since the warranties for all equipment delivered to Telephonics expired in December of 1988. This funding allows Customs to have a guarantee on its equipment until C3IE and C3IW become fully operational ($80K); and,

g. National Automatic Data Interchange Network (NADIN) which allows FAA to pass all VFR flight plans to all three C3I's ($1.0M).

Total - $8.694M

TRANSFER OF E-2CS TO THE COAST GUARD

Senator DeConcini: It is my understanding that the Coast Guard budget assumes the transfer of the two E-2Cs but is showing a transfer of $7.4 million for operation and maintenance of these aircraft in FY 90. Is it less costly for the Coast Guard to operate and maintain these aircraft and if so, why?

Commissioner von Raab: It is difficult to compare by looking at the Operation and Maintenance (O&M) cost alone since it is our understanding that the U.S. Coast Guard performs the majority of its maintenance using Coast Guard personnel. We do not believe the funding for personnel is included in the Coast Guard's $7.4 million figure. U.S. Customs uses all contract maintenance which is included in the $10.4 million.

Additionally, economy of scale would dictate that by combining all four E-2Cs under one maintenance and supply system, the cost of O&M per aircraft would be reduced.

E-2C/P-3 OPERATIONS AND MAINTENANCE COSTS

Senator DeConcini: I know there has been some discussion about the fairly high operation and maintenance costs for the E-2Cs. What are the average O&M costs for an E-2C versus a P-3?

Commissioner von Raab: Total costs (including contractors, travel, DOD support agreements, fuel, oil, spares, etc.) average $11,876 per hour for the E-2C and initial costs of $4,834 per hour for the P-3 AEW.

The E-2C costs are excessive because of groundings due to wing cracks and the time for those repairs, as well as associated repair expenses.

P-3/E-2CS FLIGHT HOUR GOALS

Senator DeConcini: What are your overall flight hour goals for each of these aircraft and are they meeting those goals?

Commissioner von Raab: The P-3 and E-2C were funded to fly 100 hours per month. The individual flight time breakouts, reflected below, are for calendar year 1988. Overall, the P-3's exceeded or met the required 100 hours per month but the E-2C's were seriously affected by wing crack groundings which reduced their average flight time.

E-2 #41	404 hrs.	- arrived May 88
E-2 #15	- 519.6 hrs.	
P-3 #14	- 1,225.3 hrs.	
P-3 #90	- 1,443.5 hrs.	
P-3 #95	- 1,217.2 hrs.	
P-3 "Blue Star"	- 550.8 hrs.	- delivered in July 88
P-3 AEW	- 619.7 hrs.	- delivered in June 88

P-3 AEW

Senator DeConcini: I understand you had some problems with the P-3s when flying an air surveillance mission last year. Could you explain the problems encountered and whether or not they have been resolved?

Commissioner von Raab: During one surveillance mission, a Coast Guard officer noted problems with the system. After a close examination of his noted problems, it was determined that he was unfamiliar with the system and did not ask the Customs Detection System Specialists onboard to explain the capabilities or limitations.

During late November and early December of 1988, the P-3 AEW had a bearing failure in the rotor dome antenna assembly. At first, this problem was hard to identify because all indications pointed to a radar malfunction. After the repair, all systems returned to normal. The bearing assembly is now inspected during scheduled maintenance.

The P-3A, equipped with the Hughes APG-63, continues to have problems with the radar Inertial Measurement Unit (IMU). The IMU has proven during flights of long duration to drift at excessive rates. An Engineering Change Proposal has been drafted and is awaiting funding.

SOUTHWEST BORDER AEROSTATS

Senator DeConcini: To maintain current levels, your budget is showing an increase of $4.1 million for the air program. However, you have requested an increase in your O&M account for the southwest aerostats annualization, Black Hawk helicopters and the Albuquerque Hangar. Does the proposed $17.7 million for the southwest aerostats assume all 6 Southwest border aerostats will be operational in FY 1990?

Commissioner von Raab: Customs FY 1990 budget request assumes 6 Southwest border aerostats will be operational in FY 1990.

PUERTO RICO AEROSTAT FUNDING

Senator DeConcini: What is the funding status of the aerostat planned for Lajas, Puerto Rico and when do you anticipate it will be operational?

Commissioner von Raab: To date a total of $7.8 million has been transferred from the Government of the Commonwealth of Puerto Rico to the U.S. Customs Service. An additional $2.0 million will be transferred to Customs upon the execution of a Memorandum of Agreement between Customs and Puerto Rico. Additionally, Customs has committed $1.4 million of its own funds to the project and will provide an additional $ 0.6 million if needed. The total available funding is $ 11.8 million. Current estimated Final Operating Capability is March 1990.

PUERTO RICO ENFORCEMENT EFFORT

Senator DeConcini: What is being done in the interim to curb aircraft and vessel entries through Puerto Rico?

Commissioner von Raab: Presently, Customs has deployed in Puerto Rico an Aviation Unit consisting of five personnel and one to two aircraft. Additional support is available on call from the Miami Aviation Branch, Guantanamo Bay Aviation Unit and Surveillance Support Center in Corpus Christi, TX.

GREAT INAGUA AEROSTAT

Senator DeConcini: What about the Great Inagua Aerostat? I understand a decision was made to delay installation of this aerostat because of logistical problems and that you are transferring the funds this fiscal year to the Rio Grande City site. Does your FY 1990 budget include O&M costs for Rio Grande City?

Commissioner von Raab: Yes. Anticipated O&M costs are $3.8 million. The FY 1990 budget request includes O&M funding for Rio Grande City.

Senator DeConcini: Has any site preparation work been done at the Great Inagua site? Will any work be done this year on Great Inagua or will all of those funds be transferred to Rio Grande City?

Commissioner von Raab: No aerostat site has been selected on Great Inagua Island. The only expenditures to date have been those general program costs associated with site surveys. No construction work is anticipated this fiscal year and all acquisition funds will be applied to the Rio Grande City system.

SOUTHERN CARIBBEAN RADAR COVERAGE

Senator DeConcini: How do you plan to provide radar coverage to the Southern Bahamas and the Turks and Caicos region in the interim?

Commissioner von Raab: At present, a mix of ground based radars in conjunction with forward deployments of mobile radars is providing some radar coverage to this region.

Senator DeConcini: Do you still propose to install the Great Inagua aerostat or are other alternatives being considered either by Customs or the Bahamian government that will provide comparable effectiveness?

Commissioner von Raab: At present, the Department of Defense, acting as the lead agency for detection, is studying the technical and economic feasibility of employing an alternate mix of DOD detection assets that will provide equal or better surveillance capability in the Southern Bahamas and Turks and Caicos region.

BAHAMIAN OPERATIONS

Senator DeConcini: What success are you having with the OPBAT and Operation Bandit Missions? Can you please provide an accounting of drug seizures from these operations in FY 1988?

Commissioner von Raab: A series of meetings have taken place to define and refine operating procedures. The memorandum of understanding has been adjusted in an effort to improve procedures. We have recommended that the Bahamas apprehension effort be coordinated at the Richmond Heights C3I center.

Operation Bandit is part of the U.S./Bahamas Drug Task Force. It is a joint U.S. Customs Service/Royal Bahamian Defense Force (RBDF) program in which RBDF officers serve aboard U.S. Customs aircraft deployed out of Homestead Air Force Base, Florida. These aircraft can be authorized to land in the Bahamas when in "hot pursuit" of target aircraft. Authorization is obtained from OPBAT Nassau.

Cooperation with Bahamian Police in Operation Bandit is very successful. At the present time, six Bahamian Police are assigned to Customs Aviation Branch, Homestead AFB, and are rotated every month. These individuals are highly motivated and have enhanced our Air Interdiction Program.

Operation Bandit arrest and seizure statistics are as follows:

DESCRIPTION	FY 1987	FY 1988
Cocaine (lbs.)	3,032.4	2,650.5
Marijuana (lbs.)	12,570	4,963*
Aircraft	15**	12
Vessels	5	3
Arrests	29	30
Vehicles		1

* Includes 1 gallon hashish oil seized with 1,695 lbs. of marijuana on April 1, 1988.

** Of the total aircraft listed as seized, four crashed and/or burned.

Senator DeConcini: What resources are necessary to improve both operations?

Commissioner von Raab: Generally speaking, there is always room for improvement in any program. Customs is constantly striving to improve its operational efficiency in terms of drug seizures as related to OPBAT and Operation Bandit. We realize that interagency communication is critical for success. We cannot specify policies for other agencies. We can and are stressing the importance of good communications and the beneficial aspects of co-operation to our own field personnel who are involved in these operations.

Senator DeConcini: When a suspect aircraft has been identified or a vessel is unloading contraband in the Caribbean region, how long does it take Customs on the average to deploy interception and apprehension aircraft? How does this compare to OPBAT's deployment time?

Commissioner von Raab: Customs policy requires all intercept aircraft on operational standby to launch within eight (8) minutes after notification to scramble. Customs pilots are trained to meet these standards, and are tested regularly on practice scrambles called IRON CROWNS. Aircrews are not told when a call to launch will occur. All IRON CROWNS are handled as if there is an actual target in the system.

The exact time of launch is a function of when the aircrew receives notification to scramble. This will vary depending on the detecting agency and the sorting procedures used.

Distance to the target and the type of assets launched are the next factors of consideration. Once airborne, the Customs aircrew utilizes a DASH profile that maximizes aircraft performance. Time to the

target is function of aircraft speed and distance to the target. Once the suspect is acquired, the interceptor tracks the suspect to the ultimate destination.

OPBAT response that requires rapid reaction is typically 45 minutes for the Nassau unit. However, Customs cannot specify launch times for OPBAT crews. Because of the relatively short range of a helicopter, launch may be delayed to the last possible moment. This allows the helicopter crew to insure that the mission is flown within the range specifications of the aircraft. More importantly, it eliminates a premature launch that could result in the helicopter falling short of the offload site due to fuel exhaustion.

SECURE COMMUNICATIONS

Senator DeConcini: I understand that Customs does not like the HF or UHF secure voice frequencies because it reduces your range. Can you explain this problem and how it could be rectified so that suspects are not gaining access to interdiction intelligence information?

Commissioner von Raab: The encryption devices on the HF and UHF systems according to the Air Force should not affect the range of the transmissions. Customs has contacted the Air Force and it has consented to inspect installations on our aircraft or provide technical support to ensure that a short or incorrect wiring is not the cause for the depletion of the range when transmitting in the secure mode.

C3I CENTERS

Senator DeConcini: What is the status of the C3I Centers?

Commissioner von Raab: Customs terminated the construction contractor of C3I East on October 12, 1988 for failure to comply with the contract. Solicitations for a new construction contractor were released on October 31, 1988 and a new contract award was issued December 8, 1988. Contract completion date is March 13, 1989. The C3I Center East began initial operations on April 21, 1989. This new C3I will enable Customs to command and control assets through all phases of air interdiction. A unique feature of the system is its automated data bases which can supply real time law enforcement tactical intelligence to better enable a more rapid Customs response to interdict the airborne smuggler.

The C3I West building was completed and accepted on June 22, 1988. C3I West began operations on a 7x24 basis in September, 1988; however Customs has not accepted the system yet. C3IW still has problems with the Joint Surveillance Sites (JSS) and the Ft. Huachuca and Deming Aerostat processing of radar registration. The aerostat parrot antennas have been ordered, sites have been identified and installation is in progress. A tiger team was established by Customs Headquarters for the evaluation of the surveillance system and to correct all problems being experienced by the C3Is. The team consists of one DSS assigned to C3IW, one Eaton software specialist and two retired FAA engineering experts.

Construction of Customs National Aviation Center (CNAC) started in December 1988 and beneficial occupancy is scheduled for May 15, 1989, with a planned date of August 15, 1989, for substantial completion of the construction.

Construction continues at CNAC.

Senator DeConcini: What upgrades are being undertaken in FY 1989 and what additional upgrades are necessary in FY 1990 to provide a data link to the ARTCC and intelligence community? Are additional funds needed in FY 1990 and if so, for what purpose?

Commissioner von Raab: No upgrades are planned for FY 1989.

The following are proposed but unfunded system upgrades for FY 1990 which total $10.425 million: track capacity upgrades, FAA radar data integration, data linkage with tactical surveillance units, improved software, communications, intelligence, and training capabilities.

CUBA/HAITI

Senator DeConcini: What is your threat assessment for narcotics trafficking in Cuba and Haiti? What can be done to counter these threats?

Commissioner von Raab: It is more practical to address each of these two countries separately.

Cuba is not a drug producing country. To the best of our knowledge, neither cultivation or processing of drugs takes place there. There is no indication that Cuba has a major drug abuse problem. The role of Cuba is primarily geographical. It sits crosswise between South America and the southeast United States. The current status of Cuban/American relations precludes both the U.S. Coast Guard and U.S. Customs Service from entering Cuba's airspace

and territorial waters. This creates a "safe zone" for drug smugglers. Drug smugglers using general aviation aircraft overfly Cuba, utilizing the two existing civil air corridors. Drug loads are airdropped to waiting "go fast" boats either in Bahamian, Cuban, or U.S. waters. If pursued, the drug smuggler simply can reenter Cuban airspace, overflying Cuba southbound, effectively terminating any Customs pursuit. Drug smugglers utilizing fishing vessels, small freighters, or other vessels not engaged in commercial shipping have used Cuban waters as a safe haven, staying beyond the reach of pursuing Coast Guard Cutters. While there have recently been some well-publicized anti-drug enforcement actions taken by the Cuban Government, the Cuban government has more often taken a passive stand in relation to drug smugglers by continuing to allow the overflight by drug-laden aircraft and not interfering with drug-laden vessels taking refuge in Cuban territorial waters. Allegations that Cuban Government officials have actively assisted smugglers continue to surface.

Haiti is not a significant drug producing country. While some minor marijuana cultivation occurs, this does not present a significant threat. Haiti's role in the drug trafficking arena is that of a drug transit country. The economy of the country remains in shambles. Haiti's location, on the Windward Passage between South America and the southeast United States, places it at an important crossroads along one of the more important cocaine smuggling routes. Colombian drug traffickers have established a base in Haiti. Cocaine arrives from Colombia both by general aviation aircraft and by various types of vessels. It is smuggled on to the United States in a variety of ways, one of the most important being small general cargo vessels known in the trade as "Haitian Freighters" that carry small shipments of primarily low value inter-island cargo throughout the Caribbean. A second important method is in sea containers, either concealed in the cargo or its crating, or in the container itself. General aviation aircraft and non-commercial vessels present a threat of cocaine smuggling from Haiti. All of these conveyances have an easy route to either Puerto Rico or the South Florida area.

Customs is actively targeting commercial conveyances and cargo arriving from known high risk drug source and transit countries, including Haiti. Cargo Enforcement Teams (CET) and Manifest Review Units (MRU) are keenly aware of the cocaine threat represented by Haiti. Close coordination between these Inspection and Control units and the enforcement offices located in the same port areas assures that all available information is brought to bear on the cocaine smuggling.

Senator DeConcini: If both of these countries are reluctant to cooperate in the drug interdiction effort, then how can we effectively deter drug traffic from these areas from coming into the U.S.?

Commissioner von Raab: Without honest cooperation from the Cuban and Haitian governments, we will be forced to respond as if they were source countries themselves. That implies that we will more closely scrutinize all air traffic and shipping that departs from the two countries, and will conduct more rigorous examinations of arriving passengers and commercial shipments.

MAYAN CORRIDOR

Senator DeConcini: What is being done to fill the radar gap in the Mayan corridor?

Commissioner von Raab: Until completion of the Southwest Border Aerostat Network and the deployment of Gulf aerostats to complete the radar border envelope, radar gaps will be filled by P-3 AEW's and E-2C's.

OCDETF TRANSFER

Senator DeConcini: A portion of the $33 million reduction in your FY 1990 budget request reflects a transfer of $14.461 million and 226 FTEs to the Organized Crime Drug Enforcement Task Force at the Department of Justice, as required by the 1988 Drug Bill. I assume the Service expects to get those funds and the FTEs back from Justice for organized crime activities. Do you have a formal agreement with Justice on reallocation of these resources and if not, have there been any discussions to reach an understanding?

Commissioner von Raab: The Acting Associate Attorney General has assured Customs that the expectation for all agencies in the OCDETF Program for FY 1990 should be a reimbursement of their original budget submission except as modified by recommendations made through the Executive Review Board to the Attorney General for his consideration. Other than the above, Customs has received no assurances from the Department of Justice as to levels of reimbursement for FY 1990 and beyond.

Senator DeConcini: What would happen if the Department of Justice budget was reduced and they decided not to reallocate all of the Customs transfers back to Customs?

Commissioner von Raab: Customs would not be able to absorb positions not reallocated. There is the real possibility that, under current budgetary constraints, the Customs Service would be required to institute reductions in force (RIF) to account for the positions lost to the Department of Justice. The net effect would be that federal law enforcement efforts in drug smuggling and money laundering investigations would be less effective. Many federal prosecutors will tell you that the Customs agent lends a specialized expertise to our war on drugs.

INSPECTOR GENERAL TRANSFER

Senator DeConcini: As a result of Inspector General legislation passed by the Congress last year, the Department of Treasury was required to establish a statutory Inspector General. The portion of the bureau budgets allocated to IG functions in the past, were to be transferred to the new IG Office. I see that your FY 1990 Budget calls for a transfer of $5.6 million and 91 FTE to the Treasury IG Office. How was that figure arrived at and are you content that an equitable agreement was reached on the transfer?

Commissioner von Raab: The Customs Service used our actual FY 1988 expenditure and staffing data to estimate the budget for the Internal Audit Program. These estimates were provided to the Department. The Department then increased the estimates to provide the new Inspector General's Office with what they believed to be the necessary level of resources for support and overhead costs.

CARGO CONTAINERS

Senator DeConcini: What percentage of drugs do you estimate are coming into the U.S. through containerized cargo? What is the percentage for cocaine alone?

Commissioner von Raab: It is estimated that 30 percent or 210,000 lbs. of the cocaine which is smuggled to the U.S. will be hidden in bulk cargo, containerized cargo, or secreted within actual containers which arrive by land and sea. Unfortunately, we do not have similar percentages for other narcotics arriving by containerized cargo.

The successful interdiction of cocaine which is entering the U.S. in large loads in commercial cargo remains one of the U.S. Customs Service's top priorities. The 1990 Budget requests $28 million and 550 FTE to augment our containerized cargo

enforcement efforts. This will significantly increase the percentage of cargo subject to intensive examination.

REDUCTION OF 396 FTE IN COMMERCIAL OPERATIONS

Senator DeConcini: Your budget justification indicates that the proposed 396 FTE and $21 million reduction in Commercial Operations will have no impact on commercial operations because it will be offset by productivity and A-76 savings of $18.6 million. How will the Service achieve these savings?

Commissioner von Raab: The $18.6 million reduction to which you refer is the total net difference between the FY 1989 and FY 1990 proposed levels for Commercial Operations. This results from a mix of increases to maintain current levels of operation and reductions including nonrecurring costs, savings, absorptions, and transfers. ACS productivity savings and A-76 savings account for only $6.7 million and 269 FTE of those reductions.

We will be able to achieve the necessary savings without a negative impact on the commercial operations of the Customs Service. We anticipate considerable savings through productivity improvements as a result of enhanced automated efforts, and I am also assured that some activities of the Service can effectively be contracted out.

Customs is presently studying the feasibility of contracting out, for example, portions of Inspection and Control and Regulatory Audit. The study is still in its early stages and specific areas for possible contracting out have not been identified yet. We cannot, therefore, precisely indicate where the dollars and FTE can be realized, but I expect that through the expansion of contracting out, and with the Automated Commercial System automation efforts, savings realized will sufficiently equate to the 396 FTE and $21 million reduction planned for commercial processing.

AUTOMATED COMMERCIAL SYSTEM (ACS)

Senator DeConcini: How likely are these activities to result in savings of the levels projected without reducing program requirements?

Commissioner von Raab: We expect to achieve the projected savings, Senator.

In FY 1990, Customs expects to achieve a productivity savings of $5.6 million and 140 FTE as a result of ACS. These savings will be realized primarily in the areas of Inspection and Control and Tariff and Trade support.

Expanded Automated Manifest System (AMS) participation by air and sea carriers will allow for savings of Inspection and Control support personnel resources. The electronic transmission of manifest data and automated notification of release of cargo will reduce the clerical workload.

ACS has also had a great effect on entry units which are responsible for the control of documents and information used in every step of the entry process, from initial presentation through payment of duties. The system has relieved personnel of many routine tasks, offsetting to some degree the dramatic increases in volume.

Automated interfaces with the trade community play an important role in relieving Customs personnel from manual procedures. Increased levels of participation in the Automated Broker Interface (ABI) and Automated Manifest System (AMS) will help Customs to meet the demands resulting from increases in complexity and volume of imports.

CONTAINERIZED CARGO INITIATIVE

Senator DeConcini: How will the $28 million be spent for the containerized cargo initiative? Will any of the funds be devoted to research on technology to improve the examination of containers?

Commissioner von Raab: In order to concentrate on the larger quantities of narcotics to be found in containerized cargo, Customs will add 550 FTE and $28 million to the containerized cargo examination program in the FY 1990 budget. Our efforts will focus on more specific targeting of larger, more significant seizures to conduct more intensive narcotics examinations of high-risk transactions. This will be accomplished through the use of Operational Analyses Staffs and threat assessments, pre-arrival manifest information, more thorough container searches, added carrier agreements, and international cooperation. Customs will seek maximum inspectional enforcement results via appropriate combinations of processing and interdictory techniques. Use of technological innovations will be explored and methods like the portable contraband detectors, specialized chemicals to make drugs easier to detect, x-ray systems, and other specialized techniques will be used in cargo screening.

CARGO CONTAINERS

Senator DeConcini: Are there any funds in your budget for research on container examinations? If so, how much and for what type of activities?

Commissioner von Raab: The U.S. Customs Service is seeking novel techniques and technologies to target illegal narcotics being smuggled through U.S. ports in cargo containers. Detection techniques may be either biological, physical or chemical in nature. A pre-proposal symposium to provide multiple public and private contractors with an understanding of the technical problems and to offer a forum for discussing technical, operational and contractual questions was held in mid-March 1989. The symposium was attended by over 150 contractors. A final solicitation package consisting of the statement of work and evaluation criteria will be forwarded to potential offerers. Each contractor will submit a proposal package that will be comprehensively evaluated. Those proposals that are determined to be effective and responsive to Customs requirements will be funded from FY 1990 budget money. Approximately $5 million has been identified for this purpose.

Senator DeConcini: It is my understanding that the canine teams have been very effective in identifying illegal contraband in containers. How many teams are you devoting to containers this fiscal year and how many additional do you plan to train for use in FY 1990?

Commissioner von Raab: At the present time, we have 102 canine teams assigned to our airport/seaport operations and 74 teams assigned to our land border operations. Containerized cargo and container examinations have been given the highest priority in our daily enforcement efforts.

We plan on training an additional 110 canine enforcement teams for FY 1990.

CANINE EFFECTIVENESS

Senator DeConcini: Have canines been effective in cocaine seizures? What about marijuana and heroin?

Commissioner von Raab: We feel that our canine teams are very successful in discovering cocaine as well as heroin and marijuana. For example, in the past 15 months, our canine teams made 4,226 narcotic and currency seizures with a street value of $3.2 billion.

Cocaine	26,485 pounds
Heroin	441 pounds
Marijuana	158,282 pounds
Opium	122 pounds
Hashish Oil	114 pounds
Hashish	407 pounds
Morphine	39 grams
Drug Units*	950,798
Currency	$45,110,443

*Other dangerous drugs/prohibited substances, such as pills, capsules and individual dose size quantities.

CANINE CARGO TEAMS

Senator DeConcini: What would be the optimal level of canines you could train and use for container examination in FY 1990?

Commissioner von Raab: At the anticipated staffing level of our Canine Training Center, the optimal training capacity for FY 1990 would be 110 canine teams. This would include:

- 74 teams to the Southwest border
- 20 teams for airport/seaport container examination
- 16 CEO vacancies to be filled (5 out of the 16 will also go to airport/seaport container examination)

By the end of calendar year 1990, our Southwest border buildup will be completed. At that time, our Canine Training Center will be giving priority to assigning training slots to our enforcement operations that are involved in container examination.

CARGO CONTAINERS

Senator DeConcini: What percentage of all containers are you presently examining?

Commissioner von Raab: Customs is currently examining 4 percent of all the containers which arrive in the U.S. for narcotics.

Senator DeConcini: What percentage of all containers are you examining for narcotics shipments from source countries?

Commissioner von Raab: At the present time, Customs is examining 6 percent of all of the containers which arrive from countries which pose a major risk for any type of narcotics, and 20 percent of the containers which arrive from cocaine source/transhipment countries.

Senator DeConcini: How will these percentages increase in FY 1990 if the funds requested for the cargo initiative are provided?

Commissioner von Raab: Customs anticipates that with the increased funding that we would receive in the FY 1990 budget, we will be able to increase our rate of examination by 50 percent. This means that we will be able to increase our rate of examination of containers from cocaine source/transshipment countries from 20 percent to 30 percent, increase our rate from major risk countries from 6 percent to 9 percent, and raise the level of examination of all containers from 4 percent to 6 percent.

Senator DeConcini: What is the overall goal on examinations?

Commissioner von Raab: Currently, Customs is performing narcotics examinations on 4 percent of all containers which arrive in the United States by vessel. Overall, however, we examine 6 percent of all sea containers which arrive from countries which pose a major narcotics risk, and 20 percent of the containers which arrive from countries which present a high-risk for cocaine smuggling.

The additional positions that will be funded as part of the 1990 budget will be used to supplement our container effort.

We anticipate that these additional positions will allow us to increase the rate of examinations by 50 percent. This means that we will be able to increase our rate of examinations from 20 percent to 30 percent for containers which arrive from cocaine source/transhipment countries, increase our rate from major risk countries from 6 percent to 9 percent, and increase the level of all containers examined for narcotics from 4 percent to 6 percent.

We believe that with these levels, combined with our ability to perform quality exams of cargo and conveyances and our ability to effectively target and identify suspect shipments, we will begin to effectively deter smugglers from continuing to utilize commercial cargo and containers to smuggle large amounts of drugs into the U.S.

Senator DeConcini: What percentage of Inspection and Control activities are you devoting to commercial examinations versus drug examinations?

Commissioner von Raab: At the present time, 26 percent of our inspectional resources are devoted to enforcement-related activities, such as performing narcotics examinations of commercial merchandise, and 74 percent of our inspectors are assigned to tasks related to commercial activities and other than narcotics-related examinations of merchandise.

The 26 percent of our inspectional workforce that is reported as devoted to enforcement also includes those inspectors who perform enforcement-related activities while assigned to passenger processing areas.

Although we state that 26 percent is directly involved in enforcement-related activities, all of our inspectors are cognizant of the threat that exists with regard to narcotics in commercial merchandise. Inspectors in the field perform many different tasks. Although the primary function of these personnel may not be directly related to strictly narcotics interdiction, all inspectional personnel maintain an awareness of issues related to drug smuggling.

PERSONNEL CEILINGS

Senator DeConcini: The FY 1989 Treasury Appropriations bill included a provision establishing an FTE base of 16,739 for the Customs Service in FY 1989. What is your present FTE level and do you plan to meet the target of 16,739 by the end of the fiscal year?

Commissioner von Raab: Our current FTE level as of April 22, 1989, was 16,661 and we believe that we will meet the 16,739 target by the end of FY 1989.

DELAYS AT U.S.-MEXICO PORTS OF ENTRY

Senator DeConcini: In the FY 1989 Conference Report, the Committee directed the Service to conduct a study on ways to improve commercial and passenger crossings at the U.S.-Mexico Border. What is the status of that study and when can the Committee expect to review your findings?

Commissioner von Raab: The Customs Service Evaluation of Delays at the Mexican Border is under internal review. The Treasury Department has noted that some revisions are needed to maintain consistency with Customs standards for passenger and cargo processing. While we are aware that the report is overdue, we want to be certain that its

conclusions are sound before submitting it for your consideration.

This report addresses the following issues:

1. The effectiveness of personnel increases and other steps to reduce commercial and passenger delays,

2. Steps which Customs can take to further reduce delays,

3. The success of the Customs/INS agreement to divide primary lane staffing responsibilities on a 50/50 basis, and

4. Customs successes and problems and overall relationships with INS along the entire Southwest Border.

DEPARTMENT OF JUSTICE LEGAL OPINION/FORFEITURE FUND

Senator DeConcini: What is the status of the memorandum of agreement between the Department of Treasury and the Department of Justice concerning the DOJ legal opinion on Section 881 investigations? Can you provide a copy of this agreement for the record?

Commissioner von Raab: On February 9, 1989, the Acting Associate Attorney General and the Assistant Secretary of the Treasury signed a joint memorandum concerning Customs independent authority to seize and forfeit property under the provisions of Title 21 USC 881. This memorandum advised the United States Attorneys that, based on the Office of Legal Counsel's opinion, Customs does not have independent authority to seize and forfeit property pursuant to 21 USC 881. In keeping with the OLC opinion, this memorandum also stressed the need for Customs Special Agents to be cross-designated with Title 21 investigative authority.

Customs is currently working with DEA to properly cross-designate the appropriate Customs Agents. The Customs Service continues to disagree with the OLC's opinion but has entered into this agreement under the premise that the Customs asset sharing program is not adversely affected and the ability of Customs investigators to aggressively investigate and prosecute drug smugglers and money launderers is not diminished.

A copy of the agreement is attached.

Senator DeConcini: What will be the effect of the cross-designation procedures for Section 881

investigations on Customs investigators as result of the MOA?

Commissioner von Raab: The Customs Service will go forward with the agreement in the interest of a unified federal narcotics enforcement effort. However, the possibility exists that this agreement may have serious negative impact on Customs investigators in the field if the cross-designation process is administered poorly. Operational supervision may become cumbersome if daily reporting requirements are increased which could inhibit investigations.

Senator DeConcini: What will be the effect of the procedure outlined in the MOA on the Customs Forfeiture Fund?

Commissioner von Raab: The effect is at this time unknown. Prior to the issuance of the OLC opinion and the joint memorandum of February 9, 1989, the Customs Service routinely made seizures of currency, conveyances, and other property pursuant to Title 21 United States Code, Section 881, as well as other statutes enforced by Customs. In some instances Section 881 was the only statute utilized to effect the seizure and forfeiture. It is the loss of these types of seizures and forfeitures that could adversely affect the Customs Asset Sharing Program and reimbursement to state and local agencies through the Customs Forfeiture Fund.

In signing the MOA of February 9, 1989, the Customs Service made it clear that we had no objection to the agreement based on the understanding that the Customs Forfeiture Fund and the Asset Sharing Program with state and local agencies would not be markedly affected. We further expect to maintain our current ability to expeditiously process and share those assets or proceeds which we have seized. As a result of the MOA, Customs will be meeting with the personnel of the Department of Justice (DOJ) Forfeiture Fund in order to establish procedures which will enable both agencies to comply with the OLC opinion and preserve the current operational functions and capabilities of both forfeiture funds.

Senator DeConcini: Will the MOA reached with Justice allow Customs to turn seized assets over to cooperating law enforcement agencies when Customs has been involved in an 881 investigation which results in a seizure?

Commissioner von Raab: The language contained in the MOA states that property seized by the Customs Service solely under the authority of Section 881, will be maintained by this agency, and upon completion of forfeiture proceedings, will be shared

in accordance with the rules of equitable sharing. The MOA, as written, indicates that the Customs Service and other agencies participating in the seizure would petition the DOJ Forfeiture Fund for an equitable share of the forfeited property. The MOA does not specify the method in which Customs must petition for this property, and does not specifically identify the method in which other participating agencies petition for equitable sharing.

The guidelines and procedures for accomplishing these transfers have not yet been developed, and will have to be addressed in future meetings with the Department of Justice. Severe complications in the sharing process, and a loss of incentive for state and local cooperation with Customs narcotics efforts will transpire should Customs be required to apply to the DOJ Forfeiture Fund for asset sharing of seizures made by its employees.

The Customs asset sharing program has functioned effectively and efficiently, and has been able to expeditiously share forfeited property with qualified state and local agencies. The amounts received by these state and local agencies are often more than 90 percent of the value of the forfeited property. If the procedures outlined in the MOA are administered in a bureaucratic manner, it can only adversely affect the asset sharing program, and narcotics enforcement in general.

Senator DeConcini: How can we insure that the MOA will not interfere with the status quo on the disposition of assets seized by the Customs Service?

Commissioner von Raab: The only way to insure it would be to provide this Service with concurrent jurisdiction in these matters. In lieu of that concurrent jurisdiction, a coordinated program of Title 21 cross-designation, administered in a fair and reasonable manner, is the only alternative.

Senator DeConcini: What impact will this legal opinion have on the proceeds in the Customs Forfeiture Fund in the future?

Commissioner von Raab: Although 21 USC 881 seizures account for 15 percent of the value of all seizures made by Customs in FY 1988, we estimate that approximately 33 percent of the funds transferred to the Customs Forfeiture Fund and 80 percent of the value of assets shared with state and local agencies are from 21 USC 881 seizures and forfeitures.

In a worst case scenario, an unacceptable working relationship with the DOJ regarding transfer of assets seized by Customs under the provisions of Section 881, would lead to a virtual elimination of

our ability to assist state and local agencies with the advantageous use of 21 USC 881, with its ability to seize for probable cause rather than the higher burden of proof in most state laws. However, we expect the Department of Justice to adhere to their agreement to maintain the status quo and establish procedures which will not adversely affect Customs narcotics activities.

Senator DeConcini: The Customs Forfeiture Program has been a model of success in its ability to process seized assets and get them out to the law enforcement agencies who participated in the case in the shortest time frame possible. In 1988, after all the bills were paid and the liens covered, how much did the Customs Service net from their forfeiture program?

Commissioner von Raab: At the close of fiscal 1988, and after asset sharing requests were approved and funds transferred, $35.9 million was deposited in the Customs Forfeiture Fund.

Senator DeConcini: How much was shared with State and local agencies including aircraft, vehicles and vessels and what was the average length of time it took to process these cases?

Commissioner von Raab: During the past three years we have provided over $22 million to State and local agencies. An additional $6 million has been shared during the first quarter of FY 1989. A specific breakdown by fiscal year is as follows:

FY 1986	$4.9 million to 43 agencies
FY 1987	$6.2 million to 68 agencies
FY 1988	$11.2 million to 97 agencies

A review of asset sharing requests for assets valued over $25,000 and all currency assets, shows that the average processing time for administrative forfeitures, from date of seizure to actual transfer was 11 months during FY 1988. For the same classification of assets, the average processing time for judicial forfeitures, from date of seizure to actual transfer was 16 months during FY 1988.

AIR PROGRAM STAFFING

Senator DeConcini: What is your current Air staffing level?

Commissioner von Raab: Our current on-board staffing is 789 with an additional 22 positions committed.

Senator DeConcini: What is your projected Air staffing level for FY 1990?

Commissioner von Raab: We have not made a request of the Congress to increase staffing.

Senator DeConcini: In order to accomplish your overall air interdiction missions and implement your long-range strategy, what FTE level is required?

Commissioner von Raab: To fully operate a 7-day by 24-hour schedule, 931 FTE will be required. However, a request for these additional FTE has not been submitted this year.

DOD LEAD DETECTION AND MONITORING ROLE

Senator DeConcini: I have not yet reviewed the Department of Defense Report on how it plans to implement its lead detection role in the drug interdiction arena. However, from what I have been told, the DOD plans to place two retired Coast Guard Admirals in charge of two task forces--one in Key West and one in Alameda. I am told they also plan to operate two Joint Intelligence Centers at these same locations. I know that Customs has been carefully following the DOD planning activities. What is your assessment of the DOD's planned role?

Commissioner von Raab: Senator, we have not seen the Defense Department plan. However, we would hope that the DOD would improve our intelligence and detection posture so that we can optimize the employment of our limited interceptor/tracker and apprehension resources.

Senator DeConcini: What impact will it have on operations at the C3I Centers?

Commissioner von Raab: We would expect the DOD to provide intelligence capability not otherwise presently available at our centers. These additional DOD capabilities would enhance rather than duplicate our current network for sorting target information.

Senator DeConcini: Has the DOD approached the Customs Service asking you to agree to turn your drug interdiction assets over to the DOD for implementation of the detection mission?

Commissioner von Raab: The DOD has not asked Customs to turn over any assets as of this time. Customs policy in this matter is to provide assistance and coordination as needed to support the DOD in detecting and monitoring as the lead agency.

Senator DeConcini: If DOD does not fund the procurement of certain detection assets to help Customs improve its detection capability, what will be the estimated shortfall in the Customs Service budget in FY 1990?

Commissioner von Raab: The 1990 budget as proposed by the Bush Administration adequately funds our air interdiction program needs in FY 1990. Additional resource needs will reflect the drug strategy as defined by the Drug Czar.

CUSTOMS HANGAR AT DAVIS MONTHAN AIR FORCE BASE

Senator DeConcini: I received a copy of a letter sent by the Air Force to the Chairman of the Military Construction Subcommittee indicating that Customs would be given 30 days notice to vacate hangar #1144 at Davis Monthan Air Force Base. If Customs was required to move from the Air Force hangar this year, what impact would this move have on the Tucson Air Branch's maintenance mission?

Commissioner von Raab: The Tucson Air Branch's maintenance mission would be adversely affected if Customs were to lose hangar #1144. This would require Customs to relocate its support shops (avionics and sheet metal) and storage areas to another facility on base. The only other facilities available are a considerable distance away from the rest of the maintenance (hangar #1244) and the Customs administrative/office buildings.

Equally important would be the loss of the aircraft parking/ramp space that accompanies hangar #1144. Without this ramp, Customs will not have sufficient space to park its aircraft, nor will Customs have direct access to the taxiway for scrambling aircraft (hangar #1144 is situated between hangar #1244 and the branch administration/office building). Because of Air Force policy, Customs aircraft will have to be towed past parked Air Force aircraft before engines can be started and taxied for takeoff.

Senator DeConcini: How are you presently using hangar #1144?

Commissioner von Raab: Customs is using hangar #1144 to house the support shops (sheet metal and avionics) and to store pool/spare items (i.e., engines, rotor blades, etc.) that are stocked to support all Customs Aviation Operations Branches. Additionally, the hangar is used for other maintenance activities that support the overall Customs fleet. This support includes 500-hour inspections on Black Hawk helicopters and landing gear and wing modifications for the C-12 aircraft.

If hangar #1144 is lost, Tucson could no longer support this maintenance. Both hangars are required to support branch maintenance and intermediate maintenance for the Black Hawks and C-12s from all of the other branches.

TUCSON AIR OPERATIONS

Senator DeConcini: I understand the Tucson Air Branch has identified an alternative operations site at Tucson International Airport. What would the cost be to relocate to the former Gates Lear Jet facilities at TIA? How would this affect your operations from a logistical standpoint?

Commissioner von Raab: The total cost to relocate to the Lear Jet facility would be approximately $2 million ($1.7 million to acquire the facility and approximately $300,000 for moving expenses that would include communication and data lines, minor modifications, actual moving expenses, etc.). In addition to the $2 million, there would be the normal lease costs changes (approximately $15,000/yr.) for the real estate (parking, ramp area and land on which the building is located) that is included as part of the facility.

A relocation to the Tucson International Airport would have no real affect on the operations from a logistical point of view. The Air Force Air National Guard Unit located at TIA could be utilized for fuel and military supply support. Davis Monthan could, of course, continue to be utilized for logistics support whenever required. This new site would be of no major concern since the base and TIA are only 5 miles apart.

CUSTOMS HANGAR AT DAVIS MONTHAN AIR FORCE BASE

Senator DeConcini: Does the Tucson Air Branch prefer to remain at its present location at "DM" or would "TIA" be a much more attractive alternative?

Commissioner von Raab: The Tucson Air Branch would prefer to remain at Davis Monthan AFB, but only if it could keep both hangars (#1144 and #1244) and the Branch administrative/office building. The Air Force has moved Customs six times to date on Davis Monthan and moving to another location on the base would not be beneficial to Customs.

Senator DeConcini: If you had funds for such a move, how long would it take to become fully operational?

Commissioner von Raab: It is estimated that the Branch could relocate to the Tucson International Airport and become operational in approximately 30 days, considering the minimum time required for the installation of telephone and data lines.

ADVANCED FIREARMS TRAINING PROGRAM

Senator DeConcini: In FY 1989, the Committee included a provision in the Treasury Bill prohibiting any executive agency from taking action to implement a training center for advanced firearms outside the umbrella of the Federal Law Enforcement Training Center. I understand Customs has had continuing discussions with officials at Fort Benning to locate a training center at that Army base. Has the Customs Service taken any steps which would commit them to this facility?

Commissioner von Raab: The Customs Service has not taken any steps which would commit the Service to a permanent residency at Ft. Benning. Since the question of advanced firearms training at locations outside existing facilities arose, there has been no further development of this training program at Ft. Benning. Customs is continuing its negotiations with FLETC to satisfy its training requirements in a manner satisfactory to both Customs and FLETC. The Office of the Assistant Secretary of the Treasury for Enforcement is also involved in this process.

Senator DeConcini: Can you explain for the record why Customs needs to train 2500 of its people in advanced use of firearms?

Commissioner von Raab: Firearms training for Customs officers has been limited to basic marksmanship training and quarterly requalification on known distance ranges mixed with whatever unstandardized firearms training local firearms officers are able to provide. While this is appropriate for judging basic marksmanship proficiency, it falls short of preparing officers for the mental rigors of an armed confrontation. To better prepare our officers to deal with these occurrences, Customs believes an urgent need exists to provide realistic situational, environmental, tactical and survival oriented firearms training for its officers. A review of records maintained by the Customs Service reflects that since 1986 there has been a monumental increase in the numbers of assaults and threats on the lives of Customs officers; in 1986, there were 4 assaults/shooting incidents, in 1987, there were 21, and in 1988, there were 33. The number of shooting incidents in enforcement actions taken by Customs officers has fluctuated, but this

does not reflect the number of situations that occurred in which armed suspects were subdued or surrendered prior to being able to use deadly force. Customs seizes thousands of firearms annually in its enforcement of Customs and related laws. Many of these weapons are assault or military-type weapons.

WEAPONS STORAGE

Senator DeConcini: Please provide for the Committee a detailed justication for an armory to store all of your weapons. This justification should include how many weapons need to be repaired and stored, and a long-range explanation of the costs.

Commissioner von Raab: The term armory as used by the Customs Service includes not only storage of weapons but also weapons maintenance, inspection, distribution, inventory control, disposal of seized weapons, testing and evaluation of weapons, and other firearms-related services. Several thousand weapons and weapons-related materials are seized by Customs annually. These weapons must be examined and disposed of by the Customs armorers and firearms support personnel. The inventory of Service-owned firearms issued to Customs officers for the performance of their duties is in excess of 22,000 weapons. All Service-issued firearms require a technical inspection every two years. This causes a continuous flow of weapons through the armory facility. At any one time, there are as many as 7,000 weapons which are either in storage or in the maintenance and distribution process. In addition to the inspection process, the armory repairs issued weapons Servicewide on a high-volume basis. The other firearms support functions related to the armory include distribution and inventory control. Due to the potential for liability of the Service, Customs armorers will soon begin to provide inspection and repair service for all personally-owned, Service-authorized firearms. The estimated number of these weapons is 2,000. Estimated annualized costs for firearms support services are $416,000.

WEAPON SHARING

Senator DeConcini: Has the Service offered any of these weapons to other law enforcement agencies that may be in need? What is the procedure for sharing seized weapons?

Commissioner von Raab: The Customs Service is prepared to share its surplus weapons with other Federal law enforcement agencies. At this time, we have transferred weapons to the National Park Service

and the General Services Administration. In addition, Customs has provided the Smithsonian Institution with several weapons of historical value. Customs also has offered to share weapons with the Immigration and Naturalization Service Border Patrol, but as of this time, no weapons have been transferred.

Customs procedure for sharing seized weapons is to first determine which weapons are surplus and whether they are useful for law enforcement work. If weapons are determined to be usable for law enforcement applications, such as undercover use, the weapons are placed in the Customs inventory, if needed. If they are not applicable or not needed, they are destroyed or disposed of in accordance with 41 CFR, Utilization, Donation, or Disposal of Abandoned and Forfeited Personal Property.

MEXICAN CERTIFICATION

Senator DeConcini: Do you think Mexico should be certified on March 1?

Commissioner von Raab: The certifications signed by the President represent the policy of this Administration, and the Customs Service stands by that policy. The Customs Service has gone on record with the State Department advising of the continuing documentation of official corruption and malfeasance by Mexican officials which has been revealed by Operation Saber and other investigative activities. Customs is hopeful that President Salinas' commitment to cooperation will result in improved narcotics enforcement in Mexico. We trust that the new administration in Mexico will ensure that dramatic new initiatives are undertaken in the antinarcotics area to include our previously proposed joint operations. The bad experience of the past can be overcome by an early resolve and positive action on this critical element of the narcotics problem.

CERTIFICATION OF THE BAHAMAS

Senator DeConcini: I know that in the Bahamas several U.S. law enforcement agencies are allowed to conduct drug enforcement and interdiction operations. Once again, I have heard reports of corruption involving government officials. If this is not the appropriate place to answer this question I understand and we can discuss this issue in a closed session afterwards, but what is your opinion of the Bahamas and do you believe they should be certified?

Commissioner von Raab: The President has certified to cooperation by the Bahamas during 1988, with a Statement of Explanation which notes the large amount of cocaine still passing through the Bahamas, and the need to address the issue of corruption forcefully.

Despite the good level of cooperation received from the Bahamas, U.S. Customs is concerned at the threat posed by the enormous amounts of drugs which still transit the Bahamas in route to the United States. Customs officials are encouraged by the steps taken by the GCOB to combat official corruption, but remain aware of allegations regarding officials in the highest echelons of the government, and the need for the GCOB to continue a firm stance in rooting out corruption. Customs was particularly disappointed at the Bahamian Attorney General's decision to postpone "Operation Penguin", the program designed to spot illegal modifications performed by drug traffickers on their aircraft. Customs feels that it is important to carry out this initiative in the most expeditious manner possible, as it clearly benefits the law enforcement interests of both countries.

USE OF NATIONAL GUARD

Senator DeConcini: Last year the Customs Service was able to utilize the resources of the National Guard for drug interdiction purposes. In my state, the Guard was used at a couple of the ports to unload trucks suspected of carrying drugs. Funding of $40 million was provided in last year's Defense Appropriations Bill for the Guard to conduct these operations. Is the Customs Service able to utilize the Guard to a greater degree this year and what does the future hold for these kinds of joint operations?

Commissioner von Raab: In October 1988, Customs submitted national plans to the National Guard Bureau (412 guardsmen on a sustained effort). The states' plans were submitted through the National Guard at the Pentagon in November and December 1988. Although $40 million was provided in last year's Defense Appropriations Bill, the approval process is quite lengthy, therefore, implementation has been delayed. Implementation was originally anticipated to begin in January 1989. Due to the lack of timely disbursement of funds, the National Guard will not be used until sometime within the third quarter of FY 1989. With National Guard support, Customs can increase its level of examination of containerized cargo.

BAHAMAS PRECLEARANCE FACILITY

Senator DeConcini: In light of the increased number of arrests at Nassau International Airport, you testified last year that you intended to expand your drug enforcement operations there. Specifically, your plans included the installation of TECS II equipment, the training of Bahamian Customs officials, and enhanced private aircraft reporting requirements. What is the status of the TECS II installation at the Nassau airport?

Commissioner von Raab: All TECS II equipment at the Nassau airport has been installed and is operational.

TECS II TERMINALS

Senator DeConcini: I notice that your proposed FY 1990 Budget includes an increase of $5 million for acquisition of 300 TECS II terminals. Where will these terminals be placed?

Commissioner von Raab: If the Congress approves the $5 million for Customs FY 1990 TECS II initiative, I will prioritize the locations most in need of the new terminals when the money is appropriated. Also, due to current lower cost estimates, $5 million would provide for 375 personal computers along with the cabling, controllers, and telecommunications costs.

AMOUNT OF SEIZED CONTRABAND ATTRIBUTED TO TECS II

Senator DeConcini: How much seized contraband can you attribute to the installation of TECS II?

Commissioner von Raab: We consider TECS II to be very productive. The FY 1988 drug seizures directly attributable to TECS II are as follows:

Total Seizures

	No. of Seizures	Weight (lbs.)	Street Value
Cocaine	42	1259.6	$343,118,280
Marijuana	136	3316.5	2,557,021
Heroin	8	4.5	2,595,140
Hashish	8	4.2	7,678

Opium	2	0.6	
Other	38	0.2	
TOTAL	234		$348,278,119

Although this figure may seem small as a portion of Customs total seizure activity, it must be realized that the bulk of the drug contraband comes through containerized cargo and that TECS II is basically a passenger processing tool.

The installation of TECS II has led to the seizure of non-narcotic merchandise with a value in excess of $16 million.

PRIVATE AIRCRAFT REPORTING

Senator DeConcini: How has increased private aircraft reporting curtailed the flow of drugs?

Commissioner von Raab: More stringent reporting requirements have made it far easier for Customs to target suspect aircraft. The establishment of the 28 designated reporting locations on the southern tier has controlled the movement of legitimate traffic and permitted our inspectors in those locations to develop a level of expertise that provides both improved enforcement capability and increased facilitation for law-abiding pilots. We have targeted the designated reporting locations for intensive enforcement operations using specially trained inspectional personnel. Two such enforcement operations, DESERT HAWK and SEA EAGLE, are predicated on the premise that a cadre of highly-trained specialists in private aircraft processing will yield increased results. To date, personnel in these operations have seized over 50 aircraft valued at over $8 million in the last two years.

BAHAMAS PRECLEARANCE FACILITY

Senator DeConcini: How many Bahamian Customs officials have been trained by U.S. Customs?

Commissioner von Raab: Training for Bahamian Customs officials has been provided by U.S. Customs in the following categories:

Type of training	Number trained
Mid-management	13
Train-the-trainer	2
Dog handler	1
Executive observation program	2
Overseas enforcement training	50
Total	68

FREEPORT/NASSAU STAFFING

Senator DeConcini: What are the Customs staffing levels at Freeport and Nassau?

Commissioner von Raab: As of January 1, 1989, Customs employed 20 inspectors and one clerical assistant at Nassau and 13 inspectors at Freeport. Also, on January 31, 1989, I approved the assignment of six new inspector positions to the new Paradise Island preclearance facility.

MOBILE LABORATORIES

Senator DeConcini: I am interested in receiving an update on your Mobile Laboratory Program. You have been experimenting with a converted 18-wheeler tractor trailer. Initially, Customs utilized this 18-wheeler for detecting various alloys in steel. You then expanded the lab to analyze textiles and counterfeit electronics. During last year's hearing you testified that you were prepared to refurbish 3 seized motor homes and utilize them for mobile Laboratories. Has this been done, and if so, has the program been successful? How large is your mobile laboratory fleet? What violations are they primarily used for, commercial fraud?

Commissioner von Raab: In 1983, the New Orleans Customs Laboratory embarked on a new program to analyze steel imports dockside utilizing a mobile metal analyzer housed in a converted motor home. Based on the successes of this program, two additional converted motor homes and mobile metal analyzers were procured in 1985. One of these units was assigned to the Los Angeles Laboratory, and the other was shared between the Chicago and New York Laboratories.

During 1987, a seized tractor trailer and three seized motor homes were acquired by the laboratory system for conversion into mobile laboratories. Conversion of the tractor trailer and the three seized motor homes was completed in early 1988. The 18-wheeler mobile laboratory is being used to provide

analysis of a large variety of samples since it is a near full-service laboratory. The motor home mobile laboratories have been assigned to field laboratories in New York, San Francisco, and Savannah. Customs now has mobile laboratories in six field laboratories. The only laboratory not having a mobile capability is San Juan, where fulltime operations are not warranted.

Overall the mobile laboratory program has been very successful. To date most mobile laboratory operations have involved on-site examination and testing of steel, textiles, and electronics for proper tariff classification, assistance in fraud investigations, quota determinations and investigation of possible patent and copyright violations. Dockside analysis and weighing of steel and textile imports by mobile laboratory teams have produced the most significant results. Steel imports are now being entered under the correct tariff number and invoiced at the proper weight as a direct result of the successes of the mobile laboratory operations. However, we continue to discover approximately 20 percent of textile imports examined by mobile laboratory teams to be misclassified or overweight.

Mobile capabilities using the refurbished motor homes are being expanded to handle increased workloads involving more sophisticated electronics testing and non-ferrous metal analysis (brass, bronze, minerals, etc.) as well as the analysis of other commodities such as prohibited freon-containing aerosols. While participating in field operations, analysts also provide training to other Customs Officers in such things as the use of narcotics test kits and textile screening kits.

The advantages of mobile laboratory operations are significant, however, chemist and technician efficiency is somewhat reduced in a mobile operating environment compared to a normal laboratory environment. Travel and set-up time and the availability of large numbers of samples that can be batched for analysis lead to this situation.

Senator DeConcini: What kind of commodities are they capable of examining? Do they have the capability to carry-out drug analysis? Where are the Mobile Labs deployed? How long do they remain in a given location?

Commissioner von Raab: All of the motor homes that were converted to mobile laboratories are equipped to analyze steel and textiles. Also by utilizing equipment from the home laboratory, the mobile laboratories have been used to analyze electronics and freon-containing cosmetics and other aerosols. The 18-wheeler laboratory is capable of analyzing

most commodities that can be analyzed in a conventional laboratory setting, such as, chemicals, drugs, steel, textiles, alcoholic beverages, food products, etc.

A mobile laboratory is assigned to each field laboratory in Chicago, New York, Savannah, New Orleans, Los Angeles, and San Francisco. The only laboratory not having a mobile capability is San Juan where it is not necessary to have one. The length of time the mobile laboratories operate at a given port varies depending on whether they are part of a special operation or whether they are on a routine port visit. For example, the 18-wheeler may operate in one location for several months at a time with personnel rotating on a weekly basis, whereas other mobile operations may be of only one or two days' duration.

Presently only the 18-wheeler laboratory is equipped to perform a complete analysis on drug samples in the field. However, the other mobile units have been used for field screening of suspected drugs and for training Customs Officers in the proper use of narcotics field test kits.

As a final note on this subject, I have already referred to our success with the steel program, however, a remaining area of concern is the transshipment of Voluntary Restraint Agreement (VRA) steel through non-VRA countries in attempts to falsely declare the true country of origin. This is particularly true in the case of Canada. The Customs laboratory system has recently made significant gains in the development of a capability to determine the origin of steel by analytically comparing an importation said to be the production of a mill in a given country against that mill's "signature", as evidenced through a certified sample from the mill on file with the U.S. Customs Laboratory. The progress to date on shipments from Canada, where we have a number of Canadian mills and their samples on file, is encouraging and significant results are possible as the program is further refined.

"INNOCENT OWNER" REGULATIONS FOR THE ZERO TOLERANCE PROGRAM

Senator DeConcini: The 1988 Drug Bill required Customs to issue regulations governing the treatment of "innocent owners" under Customs Zero Tolerance drug initiative. I understand that these regulations are overdue. What is the status of these regulations? What interim guidance is Customs issuing pending the finalization of the regulations?

Commissioner von Raab: A Notice of Proposed Rule Making governing the treatment of innocent owners is presently in Customs review. This notice will be published simultaneously in the Federal Register with those proposed by the U.S. Coast Guard and the Office of the Attorney General.

Interim guidelines, effective on February 16, 1989, were sent to the field authorizing the issuance of a summons to appear in lieu of seizure of a commercial fishing industry vessel.

MACHINE-READABLE DOCUMENT (MRD) PLAN

Senator DeConcini: The Omnibus Drug Bill of 1988 required that Customs, in conjunction with INS, the State Department, and FAA, provide a plan for a Machine-Readable Document Security Program. What does the program entail? What is the status of the Plan?

Commissioner von Raab: The MRD Implementation Plan, which has been jointly prepared by the agencies cited above, includes the following major provisions:

1. The issuance of high-quality, machine-readable identification and travel documents,

2. Further integration of lookout and other information from these agencies, as well as from other federal users of the Treasury Enforcement Communications System (TECS II),

3. Installation of MRD equipment at U.S. ports of entry to permit automated reading of documents, query of combined lookout data bases, and collection of all necessary data, and

4. Establishment of a Joint INS/Customs Systems Group to develop an Automated Border Enforcement System which is built upon TECS II and which incorporates the functional requirements of both Services.

This Plan incorporates the recommendations of the Office of Management and Budget (OMB) based on its study of the computerized information systems operated by Customs and INS in their efforts to achieve their enforcement missions at the border.

The MRD Plan has been prepared in final form, and three identical copies are currently being circulated through the appropriate offices in Customs, INS and the State Department for signature. After approval by the three agencies and their respective departments, OMB will combine the signature pages and submit the Plan to Congress.

In addition, the signed agreement between Customs and INS to implement a Joint INS/Customs Automated Border System has been included as an attachment to the MRD Plan.

REPORT ON COMMERCIAL OPERATIONS POSITIONS

Senator DeConcini: The Senate report to the FY 1989 appropriations bill required Customs to provide a detailed allocation of the 640 commercial operations positions, broken down by program, region, port and state. We have been anxious to receive this report, which is long overdue. What is the status of this report?

Commissioner von Raab: The report has been written. It is in final review in Customs and will be provided to you soon after review by Customs, Treasury and OMB.

UNIFORMITY IN CLASSIFICATION

Senator DeConcini: As you know, the Drug Act of 1988 requires Customs to develop standards for uniformly classifying imports. This requirement was the result of complaints raised by the trade community that the classification, and corresponding duties, of imported goods varies from port to port. Furthermore, when the importers sought advance guidance from Customs, they were unable to get rulings in a timely fashion. Consequently, Customs' duty assessment was unpredictable. What measures have you taken to correct this problem? What procedures have you employed to ensure nationwide standardization of Customs duty assessment?

Commissioner von Raab: In FY 1988, and through this fiscal year, Customs has been developing a multiprogram initiative to improve uniformity in classification and to accelerate the time frame in which classification advice is provided to importers.

Below are the programs undertaken by the Customs Service as part of the uniformity initiative:

> Invoices - In many cases, invoice quality has deteriorated to a point where Customs cannot identify imported articles. In order to classify uniformly and correctly, Customs must have adequate invoice descriptions. We have undertaken a campaign to work with the trade to identify invoice deficiencies and improve invoice quality. The development of the electronic invoice, both ABI and EDIFACT, are

important steps in improving the quality of invoices. A data base is planned in ACS delineating specific invoice descriptions needed to properly classify under the Harmonized System.

Customs has prepared a Directive to the Field aimed at a uniform approach to improving the quality of invoices. The Directive establishes policies and procedures for the field in conjunction with a cooperative campaign with the trade to improve the quality of invoices. District Directors are encouraged to work with importers/brokers and provide support to import specialists.

Automated Customs Information Exchange (CIE)-The Automated CIE is an integral part of the Automated Commercial System (ACS). It is designed to promote uniformity of classification and value through improved communications between the Field Import Specialists and the National Import Specialists. Programming now underway will automate the submission and response of the CF 6431 (Report of Classification and Value). The CF 6431 is the primary means of promoting nationwide uniformity of classification and appraisement.

National Summary Selectivity - National Summary Selectivity has established an automated national data base containing importer, shipper, value, enforcement, classification and commodity information. This data was created and input by the National Import Specialists, and is used to establish national bypass criteria. The data is supplemented with local criteria and is used in assigning entry summaries uniformly for either bypass or team review.

National Summary Selectivity, by insuring that merchandise is classified and processed uniformly nationwide, is a crucial element in achieving the Customs Service's uniformity objective. In conjunction with other automated systems, by continuously increasing and improving the data base available for analysis, it is also a major tool for meeting the Quality Assurance objective.

30/120 Day District Binding Rulings Program - To decrease the potential for future incidents such as CBEEMA (motherboards) and Columbia Sportswear issues, Customs management decided to expand the existing binding rulings program detailed in Part 177 of the Customs Regulations to allow for more and faster binding classification rulings. The program increases the accessibility to

Customs for filing certain ruling requests by providing for the acceptance of such requests at any Customs District office, and decreases the response time to those requests by pledging Customs to a 30-day ruling response time, except in special cases, such as commodities requiring laboratory analysis or involving requirements of other agencies. If, for some reason, Customs cannot meet its time commitment, the requestor will be issued an apology and estimate of the extended completion date. Rulings issued under this expanded program are binding on Customs. To date, Customs has issued 2,156 rulings under this program. None have been late.

Pre-Entry Classification - This program will provide reliable classification advice prior to entry, provide importers with more certain classification advice, and enhance uniformity in classification decisions. Pre-Entry Classification is specifically designed to render binding classification advice on larger volume commodities.

Under this program, Customs will identify companies with pre-entry classification potential. All pre-entry classification activity will be coordinated through and approved by the appropriate National Import Specialist (NIS). Requests for pre-entry classification can by made to any Customs District Director, NIS or Field Import Specialist. Pre-entry classifications will be issued by NIS's or Deputy National Import Specialists (DNIS), who are a group of specially trained assistants to the NIS's, on chapters 1 through 97 of the Harmonized Tariff Schedule of the United States (HTS). Pre-entry classification will be binding at all U.S. Customs ports of entry, unless revoked by Headquarters' Office of Regulations and Rulings.

Accountability and Quality Assurance - Customs is committed to improving its level of quality in all areas. In addition to the contributions that more staff, better training and the maximum use of automation will make towards quality, a cadre of professional staff, primarily import specialists and regulatory auditors, are being established in the field, who are dedicated to quality reviews and evaluations. These professionals will construct profiles, review actual importations, develop valid post audit programs, and evaluate compliance in established uniformity policy and procedures, correct errors, and eliminate incentives for port shopping. In addition, programs are being developed to fix accountability among both

managers and staff for actions taken in the field.

Rulings Module - The proposed Customs Rulings Module is an automated system containing rulings generated by Customs.

Recruitment and Training - External recruitment of quality candidates for Import Specialists became virtually nonexistent in the early 1980's, and most vacancies were filled from within Customs. Under this scenario, the number of available candidates was quickly exhausted. At the same time, Import Specialists were not receiving the quality training, including commodity seminars, and research tools necessary to keep pace with the escalating volume and complexities of international trade. Customs has added a total of 191 Import Specialist positions over the past two years. An effort is underway to recruit quality Import Specialists. This recruitment may include soliciting candidates from the general pay schedules and/or using pay differentials in high-cost cities. Training strategies include a curriculum revision for Import Specialist courses at the Federal Law Enforcement Training Center (FLETC), continued training and practice in the application of the Harmonized System, increases in commodity specific seminars, an Import Specialist exchange program for new team leaders, research materials (including technical manuals, trade publications and computer assistance), and elimination of scheduled rotation of team leaders wherever practical.

In addition to these programs, Customs has published a Notice of Proposed Rulemaking in the Federal Register which provides the mechanism for resolving documented instances of non-uniform treatment of imports for other than enforcement reasons.

Senator DeConcini: What are your procedures regarding the issuance of binding rulings?

Commissioner von Raab: With the inception of the 30/120 Day Binding Rulings Program, enacted January 1, 1989, the importing public may now submit a request for a binding classification ruling under chapters 1-97 of the Harmonized Tariff Schedule of the United States (HTS) to any Customs District, to the New York National Import Specialist Division or to Customs Headquarters. All rulings will be binding at all U.S. Customs ports of entry, unless revoked by Headquarters' Office of Regulations and Rulings (OR&R).

Rulings under this program will be issued within 30 days of the date of receipt at the Customs District office. There may be circumstances, such as laboratory analysis or consultation with another agency which could slightly delay the issuance of the ruling. In accordance with previous policy, the most difficult and abstract issues will be referred to OR&R who will issue the ruling within 120 days. If Customs cannot meet the 30 day commitment, the requestor will be notified.

The procedures under this program expand on existing rulings procedures detailed in Part 177 of the Customs Regulations. The ruling request must concern prospective shipments, and be in writing. Rulings will not be issued in response to oral requests. To ensure classification uniformity, a copy of the issued binding ruling must be included as part of the entry documents when the merchandise is imported.

Ruling requests must be filed in triplicate and must contain a complete statement of all relevant facts relating to the transaction including:

-the names, addresses, and other identifying information of all interested parties (if known); the manufacturer ID code (if known);

-the name(s) of the port(s) in which the merchandise will be entered (if known);

-a description of the transaction; for example, a prospective importation of (merchandise) from (country);

-a statement that there are, to the importer's knowledge, no issues on the commodity pending before the Customs Service or any court;

-a statement as to whether classification (HTS or TSUS) advice had previously been sought from a Customs officer; and if so, from whom, and the advice rendered, if any.

Ruling requests must contain sufficient information to determine the proper tariff classification, such as:

-a full and complete description of the article

-the article's principal use in the United States

-for articles composed of two or more materials, the relative quantity by weight of each component

-samples, individually packed for mailing, or illustrative literature

-chemical analysis, flow charts, CAS number, etc.

-inclusion of any special invoicing requirements in Part 141 of the Customs Regulations (if known)

-any other information which may assist in determining the appropriate tariff classification of the article.

Ruling requests will contain a maximum of 5 items in order to be accepted. The items in a single request will be of the same class or kind. If an importer has numerous items for which he seeks advice, he should be encouraged to participate in Customs' pre-entry "line review" classification program or may submit a traditional ruling request pursuant to Part 177 of the Customs Regulations.

If a ruling request does not conform to the above requirements, it will be returned to the requestor with written advice detailing the additional information needed.

UNIFORMITY IN CLASSIFICATION

Senator DeConcini: Out of the 640 FTE given to Commercial Operations in FY 1989, how many positions have you devoted to improving the issuance of uniform classifications and binding rulings?

Commissioner von Raab: We have allocated 125 positions to the Commercial Uniformity Program. Position types include import specialists, attorneys, and laboratory and other support staff.

FOREIGN TRADE ZONES

Senator DeConcini: I recall the 1987 Budget Reconciliation Act prohibited Customs from charging operating fees for foreign trade zones. You testified last year that this restriction would cause Customs to limit resources and attention that is given to foreign trade zones. What has been the impact of this restriction?

Commissioner von Raab: The immediate impact of suspension of the foreign trade zone annual fee was to eliminate from Customs personnel ceiling 18 inspector and auditor FTE supported by the fee.

These FTE were used to conduct spot checks and audits to assure that foreign trade zone operators were complying with their legal and regulatory responsibilities.

Customs did not abandon zone spot checks and audits. Instead, the staffing to conduct these operations was "borrowed" from other high priority Customs programs. Reporting procedures indicate that 16 FTE were actually used in zone spot checks and audits.

Senator DeConcini: How much has Customs reduced the staffing devoted to foreign trade zones?

Commissioner von Raab: As indicated in the previous question, staffing for zones was reduced to zero. Sixteen FTE were borrowed from other programs. A recent staff assessment has concluded that growth in the zone program, particularly in manufacturing subzones, now requires 13 inspector and 22 auditor FTE, a total of 35, as opposed to the 18 FTE projected for zone supervision in previous years.

Senator DeConcini: How many applications for new foreign trade zones did Customs receive in 1988?

Commissioner von Raab: Customs received 39 applications for new foreign trade zones and subzones during FY 1988.

Senator DeConcini: How many of these applications were approved?

Commissioner von Raab: Thirty-five of the applications were approved; four are still pending.

CENTRALIZED EXAMINATION STATIONS

Senator DeConcini: How successful is the CES program?

Commissioner von Raab: We have found that the Centralized Examination Station (CES) program is a very successful one which provides many advantages to both Customs and the importing community.

CES's have proven to be a very efficient means for Customs to use its physical and staffing resources. In addition, because examinations are performed at adequate facilities (where there are tools, equipment, labor, space, inspectional manpower, and supervision), CES's have also allowed Customs to perform more effective and uniform examinations of imported merchandise. By establishing CES's, Customs is ensuring that expeditious service to the trade is guaranteed, that all laws pertaining to the

importation of merchandise are complied with, and staffing and physical resources are used efficiently.

CES's allow Customs to give adequate and expeditious service to the importing community. With CES's, Customs is able to give importers rapid and predictable release times - something that is critical in today's "just in time" market atmosphere. Importers can now arrange to have that cargo selected for examination and inspected as quickly as they want since they are responsible for its transportation to a CES.

Senator DeConcini: How many CES's does Customs currently utilize?

Commissioner von Raab: There are 125 CES's operating nationwide:

Airport.....10

Land Border...17

Seaport.....74

Inland.....24

Senator DeConcini: How many CES's are operating under a written agreement with Customs? What is the nature of the agreement?

Commissioner von Raab: Local Customs managers are directed to ensure that Customs is protected from any actions taken by CES operators which are not in conformity with Customs Directives and Customs laws and regulations. In order to achieve this, managers are encouraged to sign agreements of understanding with CES operators which detail the responsibilities of both parties, and which disclaim any responsibilities by Customs for the CES operator's actions which are not in accordance with Customs Directives and applicable laws and regulations.

We are currently conducting a survey of all regions to assess the exact number of agreements which exist between Customs and CES operators. When this data becomes available, it will, of course, be provided to this body.

The terms of existing agreements are as follows:

U.S. Customs agrees to:

1. Provide adequate staffing to process Customs activities.

2. Maintain proper care of equipment, furniture and facilities as provided.

The CES operator agrees to:

1. Provide Customs with a list of charges for all services performed at the facility.

2. Provide adequate staffing and equipment to efficiently process freight transported to the examination station for Customs purposes.

3. Be responsible via liability established by the container station bond for removal of merchandise attributable to theft, inadvertence, or unusual circumstances, or other than proper Customs authorization.

4. Make and keep sufficiently detailed records pertaining to the transfer or movement of merchandise to and from the CES, specifically identifying and noting date and time of arrival and departure of all merchandise. These records shall be maintained for five years and shall be available for copying and inspection by Customs officers at any time.

5. Act at all times as a neutral party and provide service to brokers and importers equitably on a first-come first-served basis.

6. Provide to Customs a list of current employees updated when changes occur.

7. Provide adequate facilities to Customs including offices, necessary telephones, and secure parking spaces.

8. Provide all regular and necessary maintenance of the facility including janitorial service.

9. Obtain and keep current a liability insurance policy in the amount approved by the district director to cover any and all claims for personal injury or property damage that may arise during the course of operating the facility.

10. Comply in all respects with Customs directives, laws, regulations, and instructions as may be applicable in connection with centralized examination operations.

Senator DeConcini: What is the nature of the relationship between the CES and Customs -- Contractor, Licensee?

Commissioner von Raab: All CES's which are currently established are privately operated facilities. These CES's are operated by a variety of entities, including container freight station operators, companies in the transportation business, terminal operators, and customhouse brokers.

As detailed in the previous answer, Customs and CES's sign agreements of understanding which outline each party's responsibilities.

Senator DeConcini: Who sets the rates that the CES's charge?

Commissioner von Raab: The CES operator sets his own rates. However, Customs is dedicated to ensuring that the designation of a CES does not become a means of one firm charging exorbitant fees to the importer for the presentation of cargo for examination. This is one reason for Customs permitting more than one CES in a port, as it fosters competition in pricing. Furthermore, if necessary the Customs district director can at any time give 30 days' notice to a CES operator of cancellation of his CES designation, and the charging of exorbitant fees to an importer would be reason for such a cancellation.

Senator DeConcini: How many locations only have one CES facility? How many locations have more than one CES?

Commissioner von Raab: There are 33 Customs districts which have CES's. Within those districts, 25 ports have only 1 CES operating, and 28 ports have more than 1 CES operating.

Senator DeConcini: What recourse does an importer have if they perceive that the rates or conditions are inequitable?

Commissioner von Raab: In those ports where there is more than one CES, the importer has the choice of which facility his shipment will be transferred to for Customs examination. Except for shipments selected for narcotics enforcement examinations, Customs does not direct an importer's cargo to one particular CES or the other.

The costs associated with the examination of merchandise at CES's has always been a concern of Customs. The way the program was established, local Customs managers, in concert with the trade, designate a CES. The trade, in these discussions, advises district managers concerning what are reasonable costs and what are exorbitant costs for providing examination-related services. The trade's advice would then be utilized by district directors when they make their final selection. In addition, district directors may revoke CES privileges for those CES operators who charge exorbitant fees.

Many importers feel that Customs policy of examining merchandise at a CES imposes a financial burden on their firms. However, our analysis of the CES program, and its costs and benefits, does not

support this view. It has always been the responsibility of the owner of the imported merchandise to bear the costs related to the unlading and exhibition of his merchandise. Furthermore, the costs associated with devanning the cargo, storage of goods, etc., which are costs normally associated with the importing business, would be charged no matter where the goods were examined. The only additional costs to the importer are those associated with transferring the cargo to a CES for examination. However, the additional costs charged to the importer for the transfer of his merchandise to a CES should be offset by facilitation savings on the majority of shipments.

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

FTE SAVINGS

Senator Mikulski: The Service projects a savings of $1.097 million and 129 FTE's by contracting out positions in data input and clerical work for non-sensitive positions. Would you please identify each affected position by job title, grade and location?

Commissioner von Raab: This was a projection based on Governmentwide experience. At this time, we have not identified individual positions. By Executive Order, OMB is entitled to deduct resources from agency budgets based on A-76 studies not yet conducted. This provides the incentive to conduct the studies. If no savings are found, reductions will be reconsidered.

Senator Mikulski: Has the Service conducted an A-76 study to determine if the work could be performed more economically by an outside contractor? If so, please provide me a copy of that study.

Commissioner von Raab: No, we have not begun yet. We will be happy to provide a copy of the study to you when it is completed.

Senator Mikulski: If no study has been conducted, how has Customs determined that contracting out these functions is in the Service's best interests?

Commissioner von Raab: We are conducting a feasibility review. The estimated savings from contracting out was based on other agencies' experiences.

Senator Mikulski: Customs projects a "savings" of $7.659 million for FY 1990 because of an expected

shortfall of 127 FTE's in FY 1989. I assume this provision means that due to personnel processing/ recruiting problems it will be unable to bring those 127 FTE's on board in FY 1989, so the Service proposes to simply drop the FTE's for FY 1990, is that correct?

Commissioner von Raab: That was the assumption, but we are making every effort to fill those positions in FY 1989. Current indications are that we may be fully staffed.

Senator Mikulski: If the above rationale is correct, is not the Customs Service, in fact, attempting to rescind the clear Congressional intent in last year's appropriation bill which funded positions for Commercial Operations?

Commissioner von Raab: The rationale for the reduction was the belief that, even though Customs would make every effort to comply, the staffing target in the law was not attainable. This assumption appears to be no longer valid.

Senator Mikulski: If Customs contends the mandate in last year's appropriation bill has been met, even with the proposed rescission of 127 FTE's, then why not use those FTE's for cargo container inspections, instead of transferring positions from Commercial Operations?

Commissioner von Raab: Current indications are that Customs will use all of the FTE specified in the FY 1989 appropriation. Therefore, we will have to reconsider the proposed reduction.

QUESTIONS SUBMITTED BY SENATOR DOMENICI

CARGO CONTAINERS

Senator Domenici: Are any efforts underway to reallocate resources within Inspection and Control to provide additional canine teams in FY 1989? If so, please give the Committee an update of these efforts.

Commissioner von Raab: Yes; at the present time resources have been identified within the Office of Inspection and Control that will allow us to provide 42 additional positions to the Canine Enforcement Program this fiscal year.

Senator Domenici: The FY 1990 request for Customs "Salaries and Expenses" includes an enhancement of 550 FTE positions and $28 million for a containerized

cargo initiative. What is the total number of FTE positions and funding currently being spent on containerized cargo enforcement?

Commissioner von Raab: The Customs Service does not have inspectional resources which are solely devoted to the examination of containerized merchandise arriving from high-risk locations. Therefore, I am unable to provide you with the exact information you requested regarding FTE and the amount of funding designated for strictly container enforcement initiatives.

However, I can tell you that at the present time, 26 percent of our inspectional workforce is devoted to enforcement-related activities, such as performing narcotics examinations of commercial merchandise. The 26 percent that is reported as devoted to enforcement also includes those inspectors who perform enforcement-related activities while assigned to passenger processing areas.

Included in this 26 percent are the 750 inspectors who are assigned to Contraband Enforcement Teams (CET) throughout the U.S. The number one priority of the personnel assigned to these teams is the targeting and examination of high-risk shipments, especially containers and merchandise arriving from high-risk locations. The 750 inspectors on CET represent about 15 percent of our inspectional workforce.

In addition to CET, all of our inspectors are cognizant of the high risk that smuggling by containers and commercial cargo presents. Inspectors who are in field locations perform many different tasks during the course of their workday. Although the primary function of these inspectors and their tasks may not be categorized as related to narcotics interdiction, all inspectional personnel maintain an awareness of the issues related to drug smuggling.

Senator Domenici: What percent of all containerized cargo is currently being examined? What percent will receive intensive examination with the funding enhancement requested for FY 1990?

Commissioner von Raab: Customs is currently examining 4 percent of all containers which arrive in the U.S. for narcotics. Customs anticipates that with the increased funding that we would receive in the FY 1990 budget, we will be able to increase our rate of examination by 50 percent. This means that we will be able to increase our rate of examination of containers from cocaine source/transhipment countries from 20 percent to 30 percent as well as raise the level of examination of all containers from 4 percent to 6 percent.

Senator Domenici: What increase are we seeing in the use of containerized cargo to smuggle illicit narcotics? How is this being determined?

Commissioner von Raab: From FY 1985 to FY 1988, we have seen a significant increase in the use of containerized cargo to smuggle illicit narcotics into the United States. Our own seizure statistics have made us aware of this trend.

In FY 1985, 2,343 lbs. of cocaine was seized from shipments of cargo and containerized cargo. In contrast, in FY 1988, 39,420 lbs. of cocaine was seized in commercial shipments and containerized cargo.

In order to address this threat, the Customs Service has intensified efforts to target those shipments which present a high risk for narcotics smuggling, perform effective examinations of suspect shipments and significantly increase the number of exams we perform on the shipments arriving from high-risk locations.

MONEY LAUNDERING

Senator Domenici: A funding enhancement of $3 million for money laundering is requested in FY 1990. What level of funding is currently being spent on money laundering investigations and what specifically will this additional $3 million be used for?

Commissioner von Raab: Customs has allocated $30,455,000 for financial investigations in FY 1989. The additional $3 million included in the President's budget package will make it possible for the Customs Service to pursue joint initiatives with its foreign counterparts, some of which have already begun. We plan to expand the informal Customs-to-Customs money laundering investigations network which facilitates expeditious exchange of financial information and promotes cooperative investigations with our international counterparts. Channels for this exchange are already established with Italy, Great Britain, and France.

The budget request includes funding for additional equipment and manpower expenses to support Customs special operations which target the unreported exportation of currency. These efforts will be enhanced through use of mobile x-ray vans, currency counting machines, and laser disc optical storage equipment.

Several new training initiatives are planned in both the domestic and international spheres. We have found a severe lack of money laundering investigative technique training among foreign as well as domestic law enforcement personnel. The training will also promote the international sharing of seized assets which was provided for in the Anti-Drug Abuse Act of 1988.

Enhancements are planned to the computer system which Customs uses for analysis of financial data collected pursuant to the Bank Secrecy Act. The planned enhancements will better enable us to identify new targets for investigation. The information is shared with other Federal, state, local, and foreign law enforcement personnel.

THE "BE ALERT" HOTLINE

Senator Domenici: How successful has the "Be Alert" hotline been to date? Please be specific.

Commissioner von Raab: The "Be Alert" hotline received a record 3,452 calls during fiscal 1988, and this number has been trending higher since the Drug Smuggling Awareness Program began in 1986. The total through mid-February was 7,694, with 99 percent of those calls related to narcotics interdiction.

Closely correlated to the apparent heightened awareness of the hotline is the increased interest shown by confidential sources who are now coming forward in greater numbers to assist Customs officers on a regular basis.

While most callers wish to remain anonymous, 50 have become "documented informants" within the Southeast region and work directly with Customs agents. Moreover, about half do not ask for the monetary award when providing valuable information.

There are many smuggling scenarios in the "Be Alert" files involving commercial cargo imports, private aircraft, commercial airliners and cruise ships. For example, last July, as the direct result of a tip, Customs special agents in the Southeast seized 1,421 pounds of cocaine, together with two vehicles and the vessel used to transport the drug, and arrested three suspects. Along the Southwest border, informants led us to a tractor trailer filled with 5,548 pounds of marijuana, and on July 7, 1988, 2,000 pounds of cocaine were seized in a Laredo, Texas warehouse. In other cases, drug dealers have been arrested by local police as a direct result of the "Be Alert" hotline and the cooperation of our agents.

Overall, "Be Alert" has developed, and is continuing to nurture, an excellent intelligence resource.

MARINE ASSETS

Senator Domenici: How many and what type of marine interdiction assets are currently in the U.S. Customs Service vessel fleet? What are the annual O&M costs for these marine assets? You mention in your testimony that Customs has recently awarded a national marine contract; what is the annual cost of this contract?

Commissioner von Raab: The Customs fleet currently consists of 200 vessels, a reduction of 70 vessels from our 1988 vessels inventory. The oldest boats in our inventory, including a large number of seized boats that have never been as useful as purchased vessels, are being retired. The elimination of these high-maintenance, less productive assets, should have a minimal impact on our program strength. The fleet consists of 100 interceptors, 65 multipurpose utility boats, and 35 blue water (radar) vessels.

The FY 1988 O&M costs for the Customs fleet was $5.2 million for (270 vessels). The maintenance contract cost was $2,322,896 for a period of eight months during which the contract was in effect in FY 1988. The FY 1989 costs are anticipated to be $1,932,649 over and above the national maintenance contract for the reduced fleet of 200 vessels.

The National Marine Contract for 1989 is anticipated to run $3.6 million. This figure consists of maintenance costs not reported in the general O&M figures. This $3.6 million cost will be our first full year under the national maintenance, and this figure still includes initial start-up costs.

CANADIAN FREE TRADE AGREEMENT (FTA)

Senator Domenici: What will be the impact of the Canadian Free Trade Agreement on the Customs Service? Will it result in reduced Customs staffing requirements along the U.S.-Canada border?

Commissioner von Raab: Because the Canadian Free Trade Agreement (FTA) did not become effective until January 1st of this year, it is premature to assess the impact on the Customs Service. To date, Customs is unaware of any significant problems created by FTA implementation.

However, Customs is aware of the increased incentive the FTA creates for transshipments of some products through Canada. The potential for the utilization of Canada as a situs for repackaging plants has been identified. In addition, Customs is concerned that smuggling drugs in FTA duty-free shipments may become an excellent method for introducing them into the U.S. without intensive examination. In order to address these concerns, Customs will closely monitor imports statistics to identify possible fraudulent shipments.

We will work closely with our Canadian counterparts to counteract problem areas. At this time, it is too soon to tell if the Canadian Free Trade Agreement will reduce staffing requirements along the U.S. Canada border.

HARMONIZED TARIFF SYSTEM (HTS) IMPLEMENTATION

Senator Domenici: What problems, if any, are you currently experiencing as a result of implementation of the Harmonized Tariff System?

Commissioner von Raab: In light of the HTS being the first major change in the U.S. tariff system in 25 years, the transition to the HTS was very smooth. When the HTS first became effective in January 1989, Customs and the trade experienced some minor problems in adjusting to the new requirements. However, currently there are no major problems associated with the HTS. This is due largely to the preliminary work that was done by Customs to ensure that sufficient training, materials, and operational instructions were available before the HTS became effective. Public inquiries regarding HTS issues and problems have decreased sharply in the last 2 months.

CUSTOMS FIREARMS POLICY

Senator Domenici: What is the current firearms policy of the U.S. Customs Service?

Commissioner von Raab: The Customs Service firearms policy delineates the authority and guidelines for carrying and use of firearms for all Customs officers required to bear firearms in the performance of their duties. This document is currently undergoing revision and impact bargaining with the National Treasury Employees Union. A copy is attached for the record.

Senator Domenici: What is Customs current inventory of weapons?

Commissioner von Raab: Customs is moving into the final stages of a standardized weapons inventory. There are currently 5 types of weapons being issued to Customs officers:

Smith and Wesson Model 686 .357 Magnum 6-shot revolver
Smith and Wesson Model 6906 9 mmP semi-automatic pistol
Smith and Wesson Model 60 .38 Spl 5-shot revolver
Steyr-AUG .223 caliber burst fire rifle
Remington Model 870 12 gauge pump action shotgun

All other weapons currently in use by Customs officers are in the process of being replaced by the above standardized models. As these weapons are replaced the non-standardized weapons will be disposed of via current regulations.

Senator Domenici: Is a rifle/shotgun being issued to each Customs enforcement officer?

Commissioner von Raab: The current minimum ratio of shoulder weapons for enforcement personnel is two rifles and two shotguns for every five officers. This ratio is generally greater throughout the Customs Service. Along the Southwest border, the ratio is more than one shoulder weapon for every officer but this ratio does include some reserve weapons not issued to specific individuals.

Senator Domenici: Are Customs personnel allowed to purchase their own weapons? What is the policy on this?

Commissioner von Raab: Customs officers are allowed to purchase their own weapons and these are authorized for official duty use if the weapon meets standards as outlined in the firearms policy, and the officer demonstrates acceptable proficiency on the qualification course. Use of personally owned firearms under the current policy was left to the discretion of the officer. Changes to the policy that are soon to be implemented stipulate that personally owned firearms must meet the same criteria set forth for Service-issued weapons. Personally owned revolvers must be chambered for .38 caliber or .357 Magnum caliber. Personally owned semi-automatic pistols must be chambered for 9mm parabellum or larger. Personally owned shoulder weapons must be of the same type as the standard service issued shoulder weapons. Personally owned burst fire or automatic weapons are not authorized for duty use.

Senator Domenici: What is being done to increase your weapons capability against the heavily armed criminal?

Commissioner von Raab: The Customs Service, by way of the move toward a standardized weapons inventory, has made every effort to select technically superior weapons provided by arms manufacturers. The entire inventory was selected for both reliability and usability. The purchase of more than 1,600 Steyr-AUG .223 caliber rifles has placed a weapon which instills both confidence and heightened proficiency in the hands of agents and criminal investigators. By providing enforcement officers with a choice of one of the best revolvers or most modern semi-automatic pistols, Customs has provided officers with handguns that will stand the rigors of field work and be ready when needed with reliability, simplicity, firepower and flexibility. Customs weapon system is sound and effective.

By coupling these weapons with better training, Customs officers can take the field with better confidence and ability. The only area where the Customs Service can possibly improve the weapons capability it has is through providing realistic situational training using the above weapons. Efforts are proceeding at this time in conjunction with the Federal Law Enforcement Training Center to provide this type of advanced firearms training.

POLICIES & PROCEDURES MANUAL

CUSTOMS DIRECTIVE

NUMBER: 4500-07

ISSUE DATE: February 10, 1986

SUBJECT: Firearms Policy

1. PURPOSE

To establish guidelines for the authorization, issuance, control, and use of firearms, and establish training and qualification requirements.

2. BACKGROUND

This directive is designed to revise and standardize the present guidance governing the issuance and use of firearms, to respond to field concern regarding ambiguities within the existing policy, and to provide Customs law enforcement personnel with updated guidelines that address the current level of armed threat. Should a Customs Officer be sued, in either a civil or criminal action, on account of actions pursuant to this Directive, the Customs Service will provide support to the extent authorized by law, provided that the officer acted in good faith and with a reasonable belief in the lawfulness and the necessity for the action taken. Use of firearms must be in accord with the requirements set forth in Section 6.C.(1) of this policy.

3. RESPONSIBILITIES

Assistant Commissioners and Regional Commissioners will be responsible for insuring compliance with the provisions contained in this Directive.

Firearms and ammunition standards are set by the Ordnance Specialist, and approved by the Commissioner of Customs.

4. SUPERSEDED MATERIAL

Customs Directive No. 4500-05 dated January 1984, Firearms and Chemical Spray Policy, is hereby superseded.

5. FIREARMS AUTHORIZATIONS

A. Authority for Customs officers to bear firearms is contained in Title 19 U.S.C. 1589. Only those Customs officers authorized in writing to bear firearms by the Commissioner of Customs shall be considered, for the purpose of these guidelines, as being authorized to bear firearms. Nothing in this issuance shall be construed as interfering with the right of an individual to carry a personally owned firearm in an off-duty status in accordance with state or local law.

B. All Customs officers authorized to carry firearms except Customs officers performing inspector duties (WAEs, part-time, intermittents, temporaries) are required to receive firearms training at the Federal Law Enforcement Training Center, and must qualify in the use of firearms in accordance with provisions of this issuance. Customs officers performing inspector duties will receive their firearms training from the local certified firearms instructor. (See paragraph 9,A.)

C. Regional Commissioners shall determine those positions and work assignments in which Customs inspectors, Customs officers (WAEs, part-time, intermittents, temporaries), Customs Enforcement Officers and Evidence Custodians who meet the training and qualification requirements of this issuance may be authorized to carry firearms.

(1) Special Agents, Criminal Investigators and Patrol officers and Contraband Enforcement Team (CET) members, are subject to call at any time and, therefore, are authorized to carry handguns at all times.

(2) Customs Inspectors, Customs Officers performing inspector duties (WAEs, part-time, intermittents, temporaries), CEO's and seizure custodians are on call and those officers who are required to carry the firearm with which they have qualified in on-duty status are authorized to carry them to and from their residence to the place where their duties are to be performed.

(3) Office of Enforcement Support personnel authorized to carry firearms while involved in field cases or transporting sensitive/costly equipment are authorized to carry firearms from their residences to specific duty assignments.

(4) Under circumstances which in their opinion warrant doing so, Assistant and Regional Commissioners may authorize officers under their jurisdiction to carry firearms while they are off duty.

6. GUIDELINES FOR USE AND CARRYING OF FIREARMS AND GENERAL CONDUCT.

A. On the Person

(1) Customs officers should carry their handguns in a holster on their person. There have been instances where law enforcement officers have been victims of assaults where the object of the assailant was to take the law enforcement officer's attache case, brief case, or hand bag. In several of these assaults the law enforcement officer was injured and the container with the firearm taken. These injuries and loss of handguns might have been prevented had the handgun been on the person of the law enforcement officer.

(2) Hip grips may be substituted for holsters for undercover wear, or plain clothes duty.

(3) Exceptions to this paragraph may be authorized by their first level supervisor.

B. Use of firearms

(1) Any use of firearms by Customs officers must be legally justifiable, within the guidelines of this directive, and be reasonable under all circumstances. Firearms may be employed only as a last resort when the officer has reason to believe that the person he or she is firing at poses an immediate threat of death or serious bodily injury to him, herself or others. The officer must keep in mind the existent danger to innocent persons.

(2) Warning shots are prohibited, except as provided in Appendix 10.

(3) Firing at fleeing persons will not be considered justified unless the officer has reason to believe that the fleeing person poses an immediate threat to the life of innocent parties or to him/herself.

(4) Any armed Customs officer who enters any foreign country or transits through any foreign country on official business shall receive permission from that country. In the absence of written authorization prior to departure from the United States, the Customs Attache or Representative will be notified. In addition, the Director, Special Investigations Division, Headquarters will also be notified.

C. General Conduct

(1) Personnel authorized to carry firearms will refrain from any unnecessary display of firearms or holsters when in civilian clothes.

(2) The Federal Aviation Act prohibits the carrying of firearms aboard aircraft by unauthorized persons. The Federal Aviation Administration requires authorized persons who are carrying a firearm while traveling by commercial aircraft to identify themselves to the ticket agent and execute the mandatory forms. It is mandatory

that all Customs Officers carrying weapons to comply with this regulation.

(3) Extreme caution should be exercised by armed personnel when coming into close contact with other persons, e.g., when conducting a personal search or fingerprinting a suspect.

(4) Customs officers are prohibited from consuming alcoholic beverages while carrying firearms. The exception to this would be those activities such as undercover operations or surveillances which may necessitate consumption of alcoholic beverages. In an excepted situation, officers are prohibited from drinking to the point where their normal faculties such as speech and balance are impaired.

(5) Customs officers who are assigned to overseas positions not requiring the carriage of firearms will upon reassignment to the United States be required to comply with this policy.

D. Storage, care, and maintenance of firearms

Each Customs officer carrying a firearm in the performance of official duties is responsible for the safe storage, operation, general care and maintenance of the firearm. Firearms will be maintained in accordance with the provisions of Customs Directive 4500-04, Maintenance and Repair of Firearms within the Customs Service, dated January 3, 1984, and any subsequent revisions. Instances of deliberate neglect (e.g., rust, unattended damage, etc.) or failure to reasonably comply with the published standards of care, storage, and maintenance shall be reported by the firearms officer to the Customs officer's supervisor.

Firearms and ammunition shall be stored in a safe and secure area in accordance with the requirements contained in this section. The following standards shall be adhered to by all Customs personnel authorized to carry or who are responsible for firearms, ammunition, and chemical sprays.

(1) Unissued firearms will be stored in a secure room which meets the requirements of Section 5241.4/B of Manual Transmittal 5200-31 dated January 27, 1982 (REAL AND PERSONAL PROPERTY SECURITY). A GSA approved Class 5 security container may be utilized in lieu of secure rooms where available. Containers and rooms will contain a chemical or electric moisture retardant to prevent rust. In very small offices with few handguns to secure, a file cabinet with a lock bar security system and a combination lock meeting the requirements of FFS specification FF-p-110 may be utilized for storage.

(2) Ammunition will be stored in a secure room, as identified in (1) above, preferably separate from firearms if feasible. If a secure room is not available, small quantities may be stored in a metal file cabinet secured with a lock bar and a combination lock meeting the requirements of FFS specification FF-p-110.

(3) All individuals to whom a firearm has been issued will take precautions against its theft or loss.

When not carried, issued firearms will be stored in accordance with (4) and (5) below.

(4) Employees choosing not to carry their handgun between the place where work is to be performed and their home will secure their weapon at the work site in accordance with D.(1) above.

(5) When firearms are stored at an unattended location, i.e., officer on vacation, reasonable care will be taken to insure they are secure to prevent their misuse or theft.

(6) If it becomes necessary to leave any firearms in an unattended vehicle, vessel, or aircraft, the firearm must be concealed from view and secured under lock.

(7) When a firearm must be left aboard an unattended vehicle, vessel, or aircraft on a military installation, the Provost Marshal or Base Commander will be notified.

(8) Managers will maintain one firearm for each occupied position which requires the carrying of a firearm and one additional firearm for each five such positions. All firearms that are in excess of authorized levels will be transferred to the Ordnance Specialist, USCS, FLETC. Offices with less than five officers may maintain one extra firearm. Regional offices and Headquarters offices of Enforcement and Internal Affairs may store up to 15 additional unissued handguns. The maintenance of these handguns will be the responsibility of the management official to whom the firearms are assigned and they will be secured as set forth in Section 6. D(1) above.

(9) When the USCS Ordnance Specialists (OS) receive firearms, an evaluation of their condition will be made and they will be repaired as appropriate for reissue. If repair costs are not considered cost effective the OS will dispose of them in accordance with Customs Directive 4500-02 dated November 23, 1983, Reduction of Customs Firearms Inventory.

(10) Issued and unissued firearms shall be accounted for at all times on the Firearms Inventory Control Sheet, Appendix 6. It shall be the responsibility of the designated officer in each office to maintain the Firearms Inventory Control Sheet.

(11) Support firearms such as rifles, shotguns, and automatic firearms present unique accountability problems. (References Customs Directive 4500-03, dated December 1983, Firearms Acquisition, Issuance and Accountability Par. 7b). With approval of the appropriate Assistant Commissioner, Internal Affairs, Special Agent in Charge, District Director or Port Director or his designee, such firearms may be issued to Customs officers who are required to carry firearms in the performance of their duty and maintained by them. Automatic firearms will only be issued on a case-by-case basis. Those support firearms which are not issued to individuals and the shotguns placed in secondary at land border ports, shall be maintained in a central storage area meeting the criteria as specified in Section 6. D (1).

No firearm will be issued to an individual for duty use unless that officer has qualified with that particular firearm, as directed in Section 10 (D) and (E).

Qualifications with support firearms will be recorded on Firearms Authorization and Certification form, (CF 317) Appendix 7, which will be maintained by the designated range officer. Recognizing that the need for support firearms cannot always be anticipated in advance of operational necessity, these firearms and a supply of ammunition should be readily accessible for use by authorized personnel. Office supervisors will ensure availability of these firearms in a timely fashion. Prior to issuance, the receiving officer shall execute the Support Firearms Issuance Log, Appendix 8. The return of the firearm must be witnessed by the range officer or the office supervisor who will also sign the log. All firearms will be returned clean and in good working order.

E. Transfers

When an employee who has been issued a firearm is transferred to another location, any issued firearms, (except shotguns and rifles,) and the inventory control card (Appendix 6), shall be transferred with the employee, and the appropriate transfer action CF 33's shall be executed promptly between transfer points and in accordance with the provisions of Section 11, Accountability. Issued shotguns and rifles will be turned in to the firearms officer prior to departure of the transferring employee.

7. REPORTING THE USE OF FIREARMS

A. General Use

Except as noted in paragraph C below, whenever an officer discharges a service-issued or personally-owned firearm or service issued chemical spray (either on or off duty) in an official capacity, he or she shall immediately report the matter to his or her supervisor and then to the Assistant Regional Director (Security). These immediate oral reports must be followed by a written report prepared by the Customs officer. The supervisor, via the chain of command, is responsible for giving immediate notification and a copy of the written report to all other officials involved: i.e., Internal Affairs, or Regional Commissioner; and where appropriate, Service Headquarters.

B. Shooting Incidents

When the discharge of a firearm causes personal injury, the incident must be immediately reported to the officer's immediate supervisor and the Assistant Regional Director (Security), and then via chain of command to the Assistant Commissioner having functional responsibility over the employee. A Personal Assistance Unit will be made available to the employee in accordance with Policy Statement 5100-17, entitled "Personal Assistance Units."

C. Exceptions

Reporting requirements do not apply to the discharge of firearms during authorized training, i.e., practice, functional testing, or use of privately owned firearms for recreational purposes.

D. Contents of Report

The above report shall include (as applicable): plans of action considered prior to the discharge of any firearms; what precipitated the incident; the time, date, and location and action of each Customs employee and each suspect involved; weapons used by participants; injuries sustained by any participant; loss or damage to property; a list of witnesses' names and addresses and a summary of the outcome of the incident. A copy of each report upon completion of litigation, will be made available to all field Firearms Officers to be used for safety awareness.

E. Accidents or Equipment Malfunctions or Failures

Firearms which fail to function properly and require more than minor repairs will immediately be sent to the Ordnance Specialist at the U.S. Customs Service Academy for repair or replacement. If the firearm was damaged in firing and indicates signs of excessive pressures or equipment failure, secure the firearm with all parts and the ammunition being used and immediately notify the Ordnance Specialist. This includes personally owned firearms authorized for official use.

8. TRAINING AND QUALIFICATIONS

A. New Customs employees or those transferred into positions requiring the use of firearms (except for Customs officers performing inspector duties (WAEs, part-time, intermittents, temporaries), shall not be authorized to carry firearms until they have successfully completed Basic Firearms Training which shall consist of at least 28 hours of firearms training under Federal Law Enforcement Training Center supervision.

Customs officers performing inspector duties (WAEs, part-time, intermittents, temporaries), will be required to receive a minimum of 20 hours of firearms training to be administered by a local qualified firearms instructor.

B. Firearms training shall consist of the FLETC basic firearms training program, including rifle and shotgun if officer is to use those firearms. No individual will be subjected to conditions hazardous to his or her personal safety or health in the course of training and qualification under the provision of this section. Basic firearms training will be accomplished with reduced load i.e., wadcutter ammunition, however, final qualification will be with service loads as defined herein. Upon the successful completion of basic training all subsequent training and requalifications will be accomplished with service ammunition.

Firearms officers/instructors are encouraged to conduct additional firearms training in subdued light

(night firing) whenever it is feasible to do so. Courses in judgement shooting should be incorporated with practical pistol shooting wherever appropriate equipment or a range is available.

C. Firearms officers will be selected from volunteers and are required to undergo training as specified by the O.S. in the maintenance and repair of firearms. Firearms officers are also required to successfully complete the firearms instructor training course offered at FLETC.

D. All Customs officers authorized to carry handguns except Customs officers performing inspector duties(WAEs, part-time, intermittents, temporaries), must maintain the minimum required level of proficiency and demonstrate such (requalify) each quarter (ending March 31, June 30, September 30, and December 31) on the Customs Handgun Qualification course with each firearm they are authorized to carry. Qualification should take place within 15 days either side of the quarter. Exceptions to this requirement can only be authorized by the Commissioner of Customs. No handgun will be carried by a Customs officer unless that officer is currently qualified with that specific firearm. In addition, once each quarter, each officer must qualify with any weapon other than a handgun which they are authorized to carry on duty. Customs Officers are not authorized to carry such weapons unless that particular type of firearm (rifle or shotgun) was used by the officer for qualification.

Customs officers performing inspector duties (WAEs, part-time, intermittents, temporaries) will be required to requalify during each quarter they are scheduled to work. Qualification must be accomplished prior to the 1st day of work in that quarter.

Firearms officers will maintain a file of Firearms Qualification and Certification (CF 317) for each qualified officer in his area, and will provide each officer with a copy of the form. In addition, copies for newly qualified officers and officers failing to qualify, will be forwarded to the principle field officer and to the National Director of Training, U.S. Customs Service Academy, FLETC, Glynco, Georgia, 31524.

Firearms used for qualification will be inspected prior to and after the training session by the range officer and the condition noted in the remarks section of the qualification record.

E. Managers at all levels must afford those officers authorized to carry firearms the opportunity to practice in order to remain proficient with their issued/-authorized firearm(s). A minimum of fifty rounds of service loads for the handgun will be issued each month to each officer required to carry them., This ammunition will be in addition to any required for scheduled training/qualification. Ammunition for rifle and/or shotgun practice will be issued at qualification time to be used prior to firing a qualification score. The number and types of ammunition are 10 rounds (#4 buckshot) and 10 rounds of slugs for 12 gauge shotguns, and 20 rounds for rifles. The monthly issued ammunition

will be fired only in firearms intended for official use. The firing practice will be done on a firing range or other location where it is safe to do so. These courses of fire will be at the officer's discretion. Those officers who have no difficulty qualifying need not be accompanied by an instructor. Range officers of firearms instructors must be made available, however, to assist those officers who need coaching.

F. After 5 sighting shots normally qualification will commence. However, an officer may request one practice course prior to actual qualification. Each officer will be given three opportunities to qualify, for a total of 4 courses on qualification day. If an officer fails to qualify during this requalification session, he or she will not be authorized to carry that firearm until such time as satisfactory proficiency is demonstrated.
The courses of fire or type of firearms training during this period will be determined by the range officer or the firearms instructor involved. Reasonable efforts will be made to assist the officer to properly qualify. Until qualification is accomplished, the officer will not be placed in a position requiring the use of a firearm. If the officer fails to qualify in 2 consecutive quarters, he or she then will be removed from his/her position requiring the carriage of firearms.

G. Customs inspectors who fail to qualify in 2 consecutive quarters;

(1) Hired prior to July 1, 1979

(a) If an inspector is currently in a position which does not require carrying of a firearm he/she will remain in that position at the same grade and pay and continue to perform the same duties. If at a later date management determines that position requires the carrying of a firearm the inspector will be placed in another inspector position at the same grade and pay. If possible the inspector will remain at the same duty station. Reasonable effort will be made to assist the inspector with his or her continued attempts to qualify.

(b) If an inspector is currently in a position which does require carrying a firearm he/she will be reassigned to an inspector position, which does not require the carrying of a firearm, and at the same grade and pay. If possible the inspector will remain at the same duty station.

(2) Hired after July 1, 1979

(a) Assigned to another position other than inspector not requiring the carriage of firearms. If possible this position will be of the same grade and base pay.

or

(b) Removed from the U.S. Customs Service.

(3) Customs officers performing inspector duties (WAEs, part-time, intermittents, temporaries)

(a) If a Customs officer performing inspector duties fails to qualify in any quarter while on official duty, he/she will be terminated.

H. The Office of Internal Affairs shall ensure all field firearms instructors are aware of proper use of Treasury Department - involved shooting incidents as instructional aids. Anonymity of the officers involved in the incident is essential. Training must be presented in a constructive rather than purely critical mode. (See Section 7 D.)

9. TYPES OF FIREAPMS AND AMMUNITION

A. Handguns, Service Issued

Standardization of Service-issued handguns is considered desirable to facilitate training, and for the purposes of compatibility with other law enforcement services with whom Customs regularly operates.

(1) The Service-issued revolver(s) will be chambered for the .357 Magnum cartridge, and a barrel of at least 3 inches and no more than 4 inches, and built to Customs specifications or its latest revision. Other revolvers, not meeting the above specifications and having a capacity of 5 rounds or more, and a barrel length of 2 inches and no more than 4 inches may be carried. These smaller firearms may be retained for under cover use or for wear with civilian clothes, with the approval of the supervisor. Plain clothes officers are authorized to carry .380 caliber semi-automatic pistols on routine duty. However, if an operation indicates the imminent use of weapons, only the Service standard weapon, or issued weapon will be utilized, i.e. 38 Special, +P+, 357 magnum, 9MM, 38 super automatic and 45 ACP. All as factory issued except for grips which Customs Officers may modify at their discretion provided that they do not alter the loading, unloading or operational characteristics of the weapon.

(2) The Service-issued semi-automatic pistols will be chambered for a minimum caliber of 9MM parabellum. These semi-automatics will have at least one integral safety feature designed to preclude accidental discharge.

(3) All firearms training officers will be qualified with a particular firearm prior to their instructing others in its use.

(4) Under circumstances which warrant it, and with supervisory approval, Customs officers may carry a second handgun provided they have qualified with the firearm and it meets the criteria listed above with regards to barrel length, round capacity and caliber. In the case of uniformed officers, the second (back-up) handgun must be

concealed from view. These undercover handguns will conform to the specifications described in paragraphs (1) or (2) above.

(5) Supervisors are authorized to grant exceptions to handgun type restrictions in any situation that carrying a Customs standard firearm would compromise the safety of the officer or the mission. Such exceptions will be documented, and continue only as long as the need exists.

(6) The only modifications Customs officers may make to their service weapons to enhance their ability to qualify are, change grips and/or adjust adjustable sights. Internal repairs will only be accomplished by the Academy armorer or the factory that manufactured the firearm.

B. Shoulder Firearms, Service Issued

(1) The use of shotguns and rifles is authorized as needs dictate. (Automatic firearms are covered in Section C.)

(2) The Customs officer to whom the shotgun/rifle is issued must first have qualified with the firearm on the course prescribed in Appendices 4 and 5.

(3) Authorized levels of shoulder held firearms

(a) Rifles/Shotguns or combinations thereof:

The number of rifles/shotguns authorized shall be at least one for every five positions required to carry firearms, but not more than those levels authorized for primary handguns except that district and regional offices will not keep extra rifles/shotguns in reserve. The maximum number of rifles/shotguns authorized will be one rifle/shotgun per each enforcement officer authorized position and one in reserve for each five enforcement officer position or fraction thereof, i.e., six enforcement officer positions may retain two extra rifles/shotguns in reserve. Standard rifles must be of .223 caliber capable of a single fire only i.e., one shot for one trigger pull (semi-automatic) or .308 caliber rifle for longer range use. Exceptions may be authorized upon written justification to the Ordnance Specialist on a case-by-case basis.

The number of rifles required up to the maximum authorized will be at the discretion of the Regional Director, Internal Affairs, Special Agent in Charge or the District Director, as appropriate.

(b) Standard shotguns will be pump action, 12 gauge with a barrel length of 18 inches but no longer than 20 inches, and must have a fixed or folding stock. Adjustable sights are optional, until the supply of non-adjustable sights are replaced.

C. Automatic Firearms, Service Issued

(1) The maximum number of submachine guns authorized will not be more than one submachine gun for each five positions required to carry firearms. Fully automatic firearms including firearms with 3-shot capability will normally be issued to air crews and boat crews. Exceptions to this restriction may be granted by the Commissioner.

(2) Standard semi-automatic firearm must be .223 caliber, with a single shot per trigger activation i.e., Colt AR-15A2 or Ruger Mini-14 etc.

(3) Standard automatic firearms must be .223 caliber with a 3 shot burst capability, i.e., Colt M16 A2/CAR15 unless otherwise specified by the Commissioner of Customs.

NOTE: Any non-standard automatic firearms at present required for operational use may be retained in the inventory only with the written permission of the Commissioner of Customs.

(4) Personnel issued an automatic firearm must first have qualified with the firearm on the course prescribed in Appendix 3.

(5) With approval of the Assistant Regional Commissioner (Enforcement), automatic firearms may be issued to officers in his area of responsibility.

(6) No personally owned automatic firearms will be authorized for Customs use.

(7) In response to emergency situations, the first-line supervisor can authorize the carrying of an automatic firearm. As soon as possible, thereafter, the supervisor must notify the Assistant Regional Commissioner (Enforcement), or his designee, or the Assistant Regional Director (Security), or his designee of such action.

D. Personally Owned Firearms

(1) Officers not desiring to utilize their service issued weapon are authorized to purchase and carry a personal weapon for official use. Personnel will be responsible for all expenses associated with the use of personal weapons including spare magazines, speed loaders etc.. The Customs Service will not be responsible for any damage, injury or death arising from design/manufacturing defects in a non-issued weapon. No internal modifications not specifically approved by the manufacturer and documented will be made to the weapon.

(2) No personally owned automatic firearms are authorized, (No firearm capable of firing more than one round per one trigger pull).

(3) Officers who utilize a personal weapon on duty will qualify with it and be issued practice, qualification and duty ammunition for just one personal weapon. Personnel desiring to utilize more than one personal weapon will practice/-qualify with it entirely at their own expense. Quarterly qualification is mandatory and only service standard/approved ammunition will be used for qualification.

E. In a life threatening situation, when prior approval is not practical, the officer is authorized to use whatever firearms or other equipment he or she feels is necessary to resolve the problem. A written report of the incident will be submitted in accordance with Section 7.

F. Ammunition - Service Issued

The designated range officer in each office shall maintain a current ammunition inventory on the Ammunition/Chemical Spray Inventory Control Sheet, Appendix 9.

(1) Before any forfeited ammunition is identified as being available for Government use, this ammunition must be inspected by a Field Firearms Officer to determine if it is suitable for USCS needs. Any such windfall acquisitions in excess of the seizing Region's allowance will be held and shipped to a destination the USCS Ordnance Specialist designates. Forfeited ammunition certified safe will only be used for training purposes.

(2) The Ordnance Specialist will identify and publish specifications and standards for ammunition to be used by the USCS. Only ammunition that meets these specifications will be used by USCS personnel in enforcement operations.

(3) Ammunition utilized for firing qualification scores will be service issued duty ammunition. Ammunition for duty use will be .357, 9MM Parabellum, 38SPL, 38 Spec, +P+, or 45 ACP will be jacketed hollow point or semi-jacketed hollow point. +P+ ammunition will be fired in firearms chambered for 357 calibre only. Ball ammunition will not be used as a service load but for training only. Current stockpiles of reduced power/ball ammunition will be used only for training purposes until stockpile is depleted. i.e. handgun/sub machinegun ammunition.

(4) Rifle ammunition will be full metal jacket .223 calibre to Customs specification. For the .308 calibre rifle it will be full metal jacket to Customs specifications.

(5) At the time of qualification, the duty use ammunition carried by the officer will be expended and fresh ammunition will be issued.

G. Emergency Situations

In any emergency, particularly as in a life threatening situation where prior approval is not practical, the officer is authorized to use whatever ammunition may be available to him or her. A written report of the incident will be submitted in accordance with Section 7.

10. ACCOUNTABILITY

A. The Office of Logistics Management, coordinating with appropriate managers at the district, region, and headquarters level, shall maintain a complete inventory of all Customs-owned and issued firearms at those levels. Firearms will be reported on the Nonexpendable Property System (NEPS) and will include data such as officer assigned, SSN, assignment, serial and model numbers, and manufacturer. The local firearms officer shall maintain an up-to-date listing of all Customs officers authorized to carry firearms, as well as which firearms they have been authorized to carry-including shoulder firearms and Service-issued and personally-owned handguns. Local property/firearms officers shall coordinate with the National Logistics Management Center in the maintenance of all inventory records. Ammunition and chemical spray must be carefully inventoried and controlled by local offices.

B. Loss of Firearms

Customs officers shall immediately report the loss or theft of a Service-issued firearm, or personal firearm which has been approved and recorded by Customs as an on-duty firearm, to his or her supervisor, and then to the Assistant Regional Director (Security). These immediate oral reports must be followed by a written report prepared by the Customs officer. The employee's supervisor will forward a copy of the report via chain of command to the appropriate principal field officer, who will insure that the loss/theft is reported to the National Crime Information Center (NCIC). The principal field officer shall also insure that an appropriate inquiry be made, and that a Board of Survey be convened to determine culpability, if any, for the loss or theft of a Service firearm. The loss/theft of a Service firearm shall be processed in accordance with Board of Survey procedures in the Management of Nonexpendable Personal Property Manual, as amended. When the Service firearm is lost due to the officer's negligence, the officer may be required to pay for the item. Disciplinary action may be taken depending on the degree of negligence involved.

11. U.S. COAST GUARD EXCEPTIONS

Although Coast Guard petty, warrant, and commissioned officers are Customs officers pursuant to 19 USC 1401(i) and 14 USC 143, they have independent authority to carry firearms. Therefore, Coast Guard personnel acting as Customs officers are exempt from this policy and they may carry and use firearms in accordance with applicable Coast Guard directives.

12. DENIAL OF FIREARMS CREDENTIALS

Credentials authorizing an employee to carry firearms may be denied, suspended, or rescinded under the following conditions:

A. Failure to qualify with a weapon the employee is authorized to carry as required in the Customs Firearms Policy.

B. Evidence of substance abuse.

C. Evidence of abuse of intoxicating beverages.

D. Evidence of the commission of a misdemeanor.

E. Evidence of the commission of a felony (arrest, indictment, etc.).

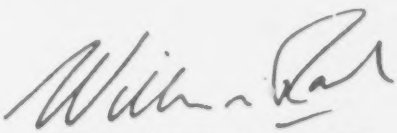
F. Evidence of emotional or psychological disorder.

G. Evidence which demonstrates violent tendencies (spousal abuse, altercations in the work place, etc.).

H. Evidence of misuse of a firearm.

I. Transfer to an assignment which does not permit the carrying of firearms.

J. Extended leave.



Commissioner of Customs

APPENDIX 1

Revolver- CUSTOMS HANDGUN QUALIFICATION COURSE
FLETC TRANS-TAR II Target

DISTANCE	STAGE	POSITION	ROUNDS	SHOTS	TIME	DESCRIPTION
3 yards	1	Standing	6 *	2	3 Sec.	Point shoulder, two-handed, without sights.
7 yards	1	Standing	12 *	1	3 Sec.	One shot in three seconds double action for the first five shots. Fire sixth, unload, reload with six and fire seventh, weak hand only (20 seconds) allotted for reload drill). Then, one shot in three seconds, weak hand only, from the "aimed in" position for the remainder of Stage A.
	2	Standing	12*	2	4 sec.	Two shots in four seconds double action for the first four shots. Fire fifth and sixth, unload, reload with two and fire

						seventh and eighth shots (15 seconds allotted for reload drill). Load with four and holster. Then two shots in four seconds until completion of Stage B.
15 yards	1	Standing	12*	2	5 sec.	Two shots in five seconds double action for the first four shots. Fire fifth and sixth, unload, reload with two and fire seventh and eighth shots (15 seconds allotted for reload drill). Load with four and holster. Then two shots in five seconds until completion of Stage B.
25 yards	1	Barricade (right)	6*	2	7 sec.	Two shots in seven seconds from the right side barricade position single or double action, strong hand supported by the weak hand.
	2	Barricade	6*	2	7 sec.	Two shots in seven seconds from the left side barricade position single or double action, strong hand supported by the weak hand.
	3	Kneeling	6*	2	8 sec.	Two shots in eight seconds for the kneeling position. (Note: kneeling for each target facing)

* Subject to such modifications as may be necessary to allow for qualification with a 5 shot revolver.

TOTAL ROUNDS = 60
POSSIBLE SCORE = 300
MINIMUM SCORE = 225

MARKSMANSHIP RATINGS

225 - 254 = MARKSMAN
255 - 284 = SHARPSHOOTER
285 - 299 = EXPERT
300 = DISTINGUISHED EXPERT

For 5 shot revolvers (i.e., S&W model 60) the same course of fire with a maximum score of 250 (50 rounds rather than 60) still requiring the 75 percent for qualification.

187 - 199 = MARKSMAN
200 - 225 = SHARPSHOOTER
226 - 249 = EXPERT
250 = DISTINGUISHED EXPERT

Small frame guns are not authorized for +P+ ammunition.

Within one year of date of effect, the qualification scores shall be:

6 shot revolvers		5 shot revolvers	
240-255	Marksman	204-215	Marksman
256-286	Sharpshooter	216-235	Sharpshooter
287-299	Expert	236-249	Expert
300	Distinguished Expert	250	Distinguished Expert

APPENDIX 2

SEMIAUTOMATIC HANDGUN COURSE

The course prescribed for revolvers (Appendix 1) will also be utilized for semiautomatic handgun qualification.

Since a semiautomatic pistol remains cocked after a round is discharged, the shooter is required to engage the safety before holstering the weapon.

Qualification scores are the same as 6 shot revolvers (see appendix 1).

APPENDIX 3

AUTOMATIC WEAPON COURSE

FLETC TRANS - TAR II - Only one target needs to be stocked servicewide, which will be utilized on all other courses of fire.

Stages of fire positions

7 yrds. - Standing (Hip level)
9 rounds (Short Bursts - Auto Fire) 6 seconds

15 yrds. - Standing (Shoulder Level)
15 rounds (Short Bursts - Auto Fire) 10 seconds

25 yrds. - Standing (Shoulder Level)
9 rounds (Short Bursts - Auto Fire) 10 seconds

Kneeling (Shoulder level) from standing
9 rounds (Short Bursts - Auto Fire) 12 seconds

50 yrds. - Standing (Shoulder Level)
3 rounds (Semiauto Fire) if so equipped. 10 seconds

Kneeling (Shoulder Level) from standing
9 rounds (Semiauto Fire) if so equipped. 20 seconds

TOTAL ROUNDS - 54
QUALIFYING SCORE - 40 (75 percent)

A minimum score of 75 percent hits in the scoring areas of the 3-ring or higher value. If weapon does not have semi-automatic capability, the full auto mode will be used at 50 yards. Magazine will only be loaded with number of rounds indicated per sequence.

APPENDIX 4

SHOTGUN COURSE

COURSE OF FIRE

Weapon: 12 guage, pump action, police riot shotgun.

Ammunition: Fifteen (15) rounds 12 guage rifled slugs: five rounds No. 4 Buckshot.

Targets: FLETC TRANS TAR II

Firing Distances: Fifty (50) yards: Twenty-five (25) yards: fifteen (15) yards.

Stages of Fire and Position

Stage One - 50 yards Sitting from standing (more accurate/stable) five rounds rifled slug. 30 seconds

Stage Two - 50 yards standing from shoulder, 5 rounds rifled slugs. 30 seconds

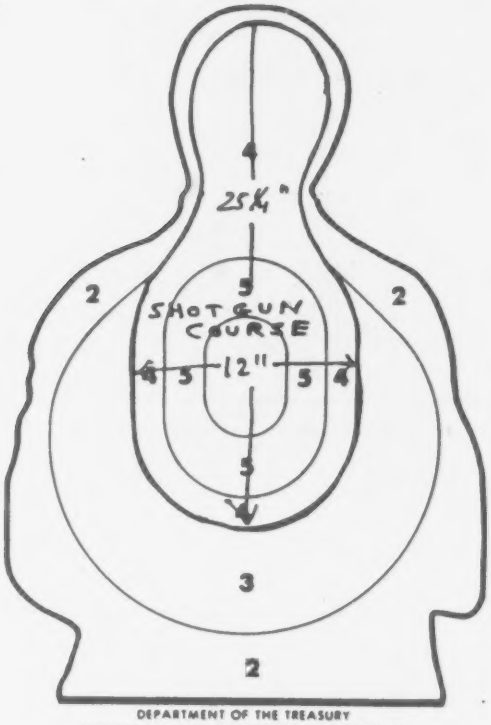
Stage Three - 50 yards prone from standing, 3 rounds rifled slugs. 15 seconds.

Stage Four - 25 yards standing from shoulder, 3 rounds rifled slugs. 10 seconds

Stage Five - 15 yards standing from shoulder 3 rounds, #4 buck. 6 seconds.

Stage Six - 15 yards hip level, 2 rounds #4 buck. 4 seconds from port arms position.

QUALIFYING SCORE: A MINIMUM SCORE OF 80 PERCENT HITS IN THE 4 RING OR HIGHER SCORING AREAS WITH RIFLED SLUGS AT A DISTANCE OF 50 YARDS IS A QUALIFYING SCORE.



DEPARTMENT OF THE TREASURY
FEDERAL LAW ENFORCEMENT TRAINING CENTER
GLYNCO GEORGIA

APPENDIX 5

RIFLE QUALIFICATION COURSE
FLETC TRANS-TAR II TARGET

STAGES OF FIRE AND POSITIONS

1. Stage #1

   a. 50 yards
   b. Kneeling from standing position (supported/unsupported) barricade
   c. 10 rounds
   d. Sustained fire
   e. 60 seconds

2. Stage #2

   a. 50 yards
   b. Sitting from standing position (supported/unsupported)
   c. 10 rounds
   d. Sustained fire
   e. 60 seconds

3. Stage #3

   a. 50 yards
   b. Prone from standing position (supported/unsupported)
   c. 10 rounds
   d. Sustained fire
   e. 60 seconds

4. Stage #4 *

   a. 50 yards
   b. 20 rounds
   c. Standing Barricade (5 rounds)
   d. Sitting Barricade (5 rounds)
   e. Kneeling Barricade (5rounds)
   f. Prone Barricade (5 rounds)
   g. Time limit (2 minutes, 30 seconds) Inclusive of 2 magazine changes.

*Utilize 3 magazines loaded 5, 5 and 10 rd. Fire first 5 rds. standing, change mags, 5 rds. sitting, change mags, 5 rds. kneeling, 5 rds. prone.

5. Stage #5

   a. 25 yards
   b. Pointing position
   c. 10 rounds
   d. Rapid (sustained fire - 30 seconds)

TOTAL ROUNDS - 60
QUALIFYING SCORE: 240 (80%)

1 REGION	2 OFFICE	3 DATE

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

FIREARMS INVENTORY CONTROL SHEET

4000 PUPM

4 WEAPON	5 SERIAL NUMBER	6 OFFICER ISSUED	7 UNISSUED	8 SUPPORT WEAPON	9 CONDITION

SEE REVERSE SIDE FOR INSTRUCTIONS

10 SIGNATURE

Customs Form 318 (121483)

Appendix 6

INSTRUCTIONS

4. WEAPON: Give make, caliber and model number.

5. Self explanatory.

6. State name of officer to whom weapon is issued for reporting period.

7. Check this box if weapon is unissued.

8. Check this box if weapon is rifle, shotgun or automatic weapon which is used on case by case basis only.

9. Use designation of GOOD, FAIR, or IN NEED OF REPAIRS as appropriate.

Appendix 7

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

FIREARMS QUALIFICATION & CERTIFICATION

1 DATE	2 NAME	3 BADGE NO
4 POSITION TITLE	5 POST OF DUTY	
6 RANGE OFFICER	7 RANGE LOCATION	

8. WEAPON #1		9. WEAPON #2	
8A MAKE	8B MODEL	9A MAKE	9B MODEL
8C CAL	8D SER #	9C CAL	9D SER #
8E BBL	8F ☐ PERSONAL ☐ ISSUED	9E BBL	9F ☐ PERSONAL ☐ ISSUED
8G PPC SCORE	8H DESIGNATION	9G PPC SCORE	9H DESIGNATION

10. WEAPON #3		11. SPECIALIZED TRAINING
10A MAKE	10B MODEL	11A LECTURE
10C CAL	10D SER #	
10E BBL	10F ☐ PERSONAL ☐ ISSUED	11B COURSE FIRED
10G PPC SCORE	10H DESIGNATION	

12. SUPPORT WEAPONS	12A MAKE	12B MODEL	12C CAL	12D SERIAL NUMBER	12E SCORE OF HIT	12F DESIGNATION
(1) SHOTGUN						
(2) RIFLE						
(3) CARBINE						
(4) MACHINE GUN						

CERTIFICATION

I hereby certify the above employee ☐ is ☐ is not qualified in all respects to properly handle, care for, and use a firearm in the performance of official duties.

13 SIGNATURE OF FIREARMS OFFICER	14 DATE

15 REMARKS

1 REGION

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

SUPPORT WEAPONS LOG

2 OFFICE

FISD FORM

3 WEAPON	4 SERIAL NUMBER	5 DATE OUT	6 SIGNATURE	7 AUTHORIZING OFFICIAL	8 DATE IN	9 SIGNATURE	10 RANGE OFFICER/SUPERVISOR

Customs Form 314 (121383)

Appendix 8

1 REGION

2 OFFICE

3 DATE

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

AMMUNITION/CHEMICAL SPRAY INVENTORY CONTROL SHEET

(SEE PAPW)

AMMUNITION

4 TYPE	5 # RDS AT BEGINNING OF REPORTING PERIOD	6 EXPENDED DURING REPORTING PERIOD	7 RECEIVED DURING REPORTING PERIOD	8 # RDS AT END OF REPORTING PERIOD

CHEMICAL SPRAY

9 TYPE	10 # CANISTERS AT BEGINNING OF REPORTING PERIOD	11 EXPENDED DURING REPORTING PERIOD	12 RECEIVED DURING REPORTING PERIOD	13 # CANISTERS AT END OF REPORTING PERIOD

14 SIGNATURE

Customs Form 316 (121488)

Appendix 9

MACHINE READABLE DOCUMENT (MRD) PLAN

Senator Domenici: The Anti-Drug Abuse Act of 1988 directs the State Department, the INS, and the Customs Service to develop a comprehensive machine-readable travel and identity document border security program. The State Department and the INS received funding for this purpose. The Customs Service was authorized $7 million, but did not receive these funds in FY 1989. Does the FY 1990 request include any funding for this program? If not, will the Customs Service be able to participate in this program without these funds? How much is required for this purpose?

Commissioner von Raab: The FY 1990 budget request does not include funding for this program. If Customs does not receive funds, our participation in the Plan will be limited to the modification of the 650 current automated readers to accept all machine-readable documents. The amount required for this purpose is $433,000.

REVENUE COLLECTIONS

Senator Domenici: Last fiscal year Customs collected $18 billion. While you have a broad role in trade matters in addition to revenue, it certainly is fair to say that Customs is a real money maker. Have you recently reviewed your possibilities to collect, under existing law, more than you presently do? In other words, is it possible for you to generate more revenue? If so, what are the prospects?

Commissioner von Raab: We are currently taking a long look at exactly this issue. While it would be speculation to give very precise numbers, I can tell you that each of our program areas, fraud, audit, drawback, collection processing, etc., are being reviewed. We have not yet developed data on marginal yields per staff member, as opposed to average yields. Neither have we developed a way to isolate the impact of trade volumes and tariff rates on overall revenue collections. These things would have to be done in order to achieve precision in estimating additional revenue yields per additional units of effort. Nonetheless, we remain committed to revenue enhancement.

GROWTH IN TRADE

Senator Domenici: What do you see as the trade environment over the next few years? Is it true there will be major growth? What is Customs doing to prepare for this?

Commissioner von Raab: Every indication is that trade will explode within the next few years. A world at peace is focusing on trade, not war. Our trade with Japan is growing dramatically. Clothing imports from Latin America will grow in countries where the U.S. decides to help stabilize national economics with liberal textile policies. The Soviet Union is looking to the U.S. for trade and economic help. Mexico is attempting to increase exports to the U.S. as a way of overcoming its massive foreign debt. Increased imports from emerging countries like China, India, Bangladesh and Sri Lanka will further increase our workload.

In order to meet this challenge, we must change the environment under which we work. There will always be tasks that automation cannot perform, therefore, Customs presently has a number of initiatives underway to meet the growing workload. Automated invoice interface and electronic funds transfer projects will totally eliminate the need for paper; preclassification and binding rulings will eliminate the need for unnecessary Customs intervention; free market processing will free importers from the need to conduct business where Customs happens to be rather than where the market is located; our outdated legal framework will be rebuilt to accommodate our modern trading environment. As the patterns of trade and processing shift from transaction by transaction means of operation to an account based mode, it will allow us to process in the most efficient way possible.

AUTOMATED COMMERCIAL SYSTEM

Senator Domenici: In your testimony, you mention the Automated Commercial System. Significant amounts of resources have been allocated by this Committee to automate Customs processing over the past few years. What have you accomplished?

Commissioner von Raab: There are several ways to describe or measure what Customs Automated Commercial System (ACS) has accomplished since 1984.

1. Processing efficiency: Customs is currently processing 54 percent more formal entries than in 1984 when ACS was introduced, with a workforce in the field that has increased less than 1 percent.

2. Productivity: The 1987 Treasury study (The Automated Commercial System Impact on Customs Commercial Operations, October 1987) showed that ACS has saved a total of 6,616 positions, a dollar savings of $198.5 million, and improved worker productivity by an average of 10 percent per year since 1984. That level of productivity gain continues.

3. Trade Interfaces:

70% formal entry volume now electronic (includes data transfer to Census for timely statistics)
50% ocean bills of lading now electronic
Air manifest now in pilot testing
25% of cargo released in paperless mode

4. Cost Reductions: The direct cost of processing a formal entry is positively correlated with the percent of electronic transactions -- where the percent of formal entries is only 32 percent, the average cost was $17.05; where the electronic transactions reached 71 percent, the average cost was $5.42.

ACS has put new automated tools into the hands of our import specialists, inspectors, agents, and other professionals, which have produced higher seizure rates, improved collections and increased the productivity of both commercial and enforcement Customs personnel.

Senator Domenici: How are the private industry and other Federal agencies responding to your automation initiatives? What are you doing about the extensive paper requirements imposed by other agencies?

Commissioner von Raab: Private industry is responding very well to Customs automation initiatives. Fifty-four percent of the Customs brokerage community is participating in our Automated Broker Interface -- providing 70 percent of our formal entries electronically. Fifty percent of the ocean bills of lading are received electronically today, and with the advent of the unique bill of lading identifier on the first of April this year, this percentage is expected to rapidly increase. Air carriers are waiting for the completion of our pilot tests with them and their industry networks to participate in our system.

Other Federal agencies are involved in some 56 percent of Customs formal entries. Most require some Customs action and collection of information. To achieve an electronic paperless environment, development of electronic means of data collection is necessary. The first step was made with the Bureau

of the Census, which now receives from Customs timely and accurate data on 70 percent of U.S. imports. The Customs/Department of Agriculture interface is working well. Training begins mid-March for the Consumer Product Safety Commission to make use of ACS. We intend to develop some prototype systems which, when operational later this year, will attract more agencies to make use of Customs capability to capture and process their data. The Office of Management and Budget has assumed a "good broker" role in stimulating other agency cooperation with Customs in the elimination of paper forms and the automation of their data capture and processing functions.

TRIANGLE PROCESSING

Senator Domenici: In 1988, Customs commissioned a study by the McKinsey Company, a well-known business consultant. That report recognized an opportunity for greater public service and substantial savings to business called "triangle" processing. This would allow business to deal with Customs in one place for their arrivals all over the country, without regard to the destination of the merchandise. What has happened to that proposal?

Commissioner von Raab: Since mid-October 1988, Customs has been conducting a Triangle Processing pilot in New York. The pilot was conducted with one broker and six importers at 11 Customs districts. An evaluation of questionnaires, which had been mailed to the major pilot participants during January 1989, revealed that the pilot test has been quite successful and no major complaints have been received from any of the participating parties. However, the questionnaire did reveal that Customs needed to gain additional experience with Triangle Processing as the number of entries that were processed during the pilot test period resulted in an insufficient number of examinations in which to properly evaluate the test. Accordingly, the New York pilot test will soon be expanded to include additional ports and brokers.

Although numerous importers and brokers (48 to date) have expressed their interest in participating in Triangle Processing, current statutory language prevents implementation of Triangle Processing nationwide. Accordingly, Customs is seeking to obtain the necessary statutory changes that would allow implementation of Triangle Processing.

DIFFERING PRACTICES IN IMPORTER TREATMENT

Senator Domenici: Last year, Congress had some extensive criticism of differing practices in Customs treatment of importers. There appeared to be wide variation in operation of Customs officers in various geographic areas. What have you done to correct this severe problem?

Commissioner von Raab: Customs has developed a comprehensive program of uniformity to correct these problems including allocation of additional resources, substantial training, automation, and new practices and procedures. A listing of accomplishments to date is included below:

- Entry Summary Selectivity was implemented nationally in September. This stresses strong national criteria and national oversight of local criteria.

- An automated Customs Information Exchange (CIE) is being developed to compile a history of previous actions taken around the country and incorporating various query capabilities.

- Due to the deterioration of invoice quality, an invoicing Directive was issued to ensure that submitted invoices contain accurate and complete information for Customs to examine, release, appraise and classify imported merchandise.

- Of the 101 additional positions allocated for FY 1989 have been filled. 125 additional positions have been allocated for FY 1989.

- ACS terminals have been provided to each import specialist team in the field for ACS research.

- Training courses have aided the import specialist in adjusting to the automated environment.

- Commodity specific seminars, which is one of Customs most effective tools for quality in classification, were held throughout the year.

- The 30/120 Day Binding Ruling Program and Pre-Entry Classification Program were implemented on January 1, 1989, for all eligible commodities.

- A Notice of Proposed Rule Making has been prepared to implement a program to resolve documented instances of disparate treatment of non-union documentation. This Notice appeared in the February 27, 1989, issue of the Federal Register.

- We are expanding the authority of the National Import Specialist with regard to improving his or her capability to insure uniform application of tariff classifications.

CANINE ENFORCEMENT PROGRAM

Senator Domenici: Do canines work well on cocaine? How many canine teams do you currently have? Do we presently have adequate canine coverage? If not, what additional amount of funding is required? What educational activities do you undertake with these dogs?

Commissioner von Raab: We feel that at the present time, our canine teams are the best technology that the Customs Service possesses for the detection of cocaine and other narcotics. The canine teams have discovered $3.2 billion worth of narcotics in the last 15 months, of which 73 percent was cocaine and 14 percent was heroin. The program has a cost effectiveness ratio of 481 to 1 for FY 1988 (the value of narcotics seized for each dollar spent on the program).

We currently have an authorized strength of 179 teams assigned to 36 ports of entry. Our FY 1990 request includes 114 Canine Enforcement Officers for assignment along the Southwest Border. This will allow us to provide 24-hour coverage at all major border crossings and expanded coverage at high-risk seaport locations.

With our present Canine Training Center staffing and facilities, the maximum training output would be 110 canine teams annually. We are discussing the merit of expanding this program with the Treasury Department.

We have an active public awareness program in all 36 ports to which the canine teams are assigned as well as the Canine Enforcement Training Center. Generally, the public relations program consists of an inspector and a canine team (canine enforcement officer and dog) to meet with civic organizations and school groups. The presentations usually last an hour and are geared to the audience. Adults in civil organizations, PTA, and church groups are presented with statistics, facts, anecdotal material and a demonstration by the canine team. With school students (third grade and up), the approach is to avoid statistics, focusing instead on personal experience and demonstrations. Often a Customs film, such as "A Day in the Life of Chopper" is a highlight of the program.

MOBILE X-RAY VANS

Senator Domenici: Last year, Congress authorized Customs monies for the purchase of mobile x-ray vans. Have the vehicles been acquired and have they proven successful?

Commissioner von Raab: Customs has ordered mobile x-ray vans with the monies authorized by Congress. We have been advised by the manufacturer that these four units, which are to be delivered to San Diego, Tucson, Albuquerque and El Paso, will be delivered during April and May 1989. The delivery dates are determined by the date of the order under our contract with American Science and Engineering. To date, six units have been delivered under this contract, and have been a useful tool in the detection of weapons, currency and narcotics.

FUTURE EXPANSION OF PRECLEARANCE

Senator Domenici: What is Customs position on the future expansion of air passenger preclearance?

Commissioner von Raab: We do not support the expansion of preclearance into any additional foreign locations. Preclearance was initiated in 1952 as a method of relieving congestion at major U.S. airports by preclearing relatively low-risk flights. At that time, narcotics trafficking was not a major problem. Since then, some preclearance locations have become major conduits for both cocaine and marijuana into the U.S., and for movement of drug-related currency. We have also developed highly successful alternative methods of processing passengers that have significantly reduced passenger processing times at domestic airports, thus obviating one of the major reasons for the establishment of preclearance.

About eight million passengers per year are presently precleared by Customs at nine locations, at an annual cost approaching $18 million.

We have no authority to search, seize, or arrest violators of U.S. law in preclearance without cooperation from local authorities. We have not been able to obtain this cooperation.

Experience has shown that the best efforts of our inspectors have been negated at existing preclearance sites. From both a resource and enforcement effectiveness standpoint, Customs is opposed to further expansion of preclearance.

As an alternative to preclearance, the issue of congestion at major U.S. airports has been addressed in Customs Masterplan for Air Passenger Processing in the 1990's.

FOREIGN TRADE ZONE REQUESTS

Senator Domenici: Several locations which have obtained inspectional services under the small airport program have also expressed their interest in establishing Foreign Trade Zones. What is the status of their requests?

Commissioner von Raab: In the interest of allowing zone operations to get underway, Customs will include Klamath Falls, OR; Midland, TX; Sioux City, IA; and St. Paul Island, AK, on a 1-year pilot program. Casper, Wyoming has already tentatively been approved to start the 1-year program. Early in this Congress, the Department of Treasury expects to pursue legislation to authorize Customs to be reimbursed for services provided to foreign trade zones at these reimbursable airports.

MAQUILADORA PROJECT

Senator Domenici: What agreements have been developed for maquiladoras? I understand that a tripartite agreement has evolved between U.S. Customs, Mexican Customs, and Maquiladora operations. What does this agreement stipulate?

Commissioner von Raab: Since 1976, when U.S. and Mexico Customs signed a mutual assistance agreement, the two Services have held regular meetings at both the Headquarters and field levels to coordinate improvements in facilities and operations. An innovative program has been developed for testing at southern border ports. The Customs Services of both countries have agreed to test a tripartite agreement between U.S. Customs, Mexico Customs, and U.S./Mexico assembly plants (maquiladoras), designed to facilitate the entry of maquiladora products while maintaining the level of vigilance necessary to prevent the smuggling of contraband through the use of assembly plant resources. The owners/agents of the maquiladora plants selected to participate in this program are required to comply with several rigorous conditions relating to the security of their physical facilities, integrity of their employees, and periodic spot checks by both U.S. and Mexico Customs officials to verify compliance. Plants that pass security requirements and maintain standards set forth in the agreement will enjoy the benefits of rapid Customs entry and inspection processing.

Four plants at two ports have been selected to test the project:

El Paso: The Packard Electric Maquiladora operation in El Paso is working very well. U.S. Customs processing has not changed greatly but the improvement is on the Mexican side in the speed of Mexican processing. The sealed maquiladora trucks bypass the long lines awaiting Mexican processing and because of the seals, trucks are not held or opened in Mexico.

Only Packard Electric is operational in El Paso. The General Electric plant in Mexico has been remodeled and their delay in participation is because they lost both the plant manager and comptroller at the re-modeled plant. New personnel are now on board in these positions and they will call and set up a date for inspection of the plant as a first step to participation and signing of the Tripartite Maquiladora Agreement Test.

Brownsville: Trico completed its 90-day test January 19. It has been very successful and it is our intention to let it continue until such time as all four participants have completed at least 90 days in the test. Deltronicos De Matamores started on November 16, 1988, and everything is going well with it so far.

CUSTOMS RESEARCH AND DEVELOPMENT (R&D)

Senator Domenici: What is the level of funding requested for research and development in FY 1990? What specific R&D work will be funded?

Commissioner von Raab: The President's FY 1990 budget request does not include any enhancements for research and development in support of Enforcement and Inspectional programs. This subprogram unit identifies and pursues a wide variety of technologies that are designed to support the primary missions of the Customs Aviation, Investigational and Inspectional programs. The techniques and technologies addressed include a diversity of electronics development programs in support of the major drug interdiction and investigative areas, an aggressive x-ray program, and the development of a broad spectrum of equipment designed specifically for contraband detection. The bulk of these funds will

be required for the completion of prototype development of an electronic tagging device. Research continues on the other electronic tracking devices and on systems designed specifically for investigative surveillance applications.

Customs R&D will continue to emphasize the location and detection of narcotics hidden in cargo containers. A major initiative was established in FY 1989 to identify techniques and technologies appropriate to the cargo container problem. Research in areas identified from this initiative will begin in FY 1990. We expect that innovative techniques that focus on detecting narcotics from their fundamental physical properties will become the core of this research program.

TREASURY STUDY OF DRUG INTERDICTION

Senator Domenici: The FY 1990 request for the Treasury Departmental Office's "Salaries and Expenses" account includes $550,000 to fund contract studies and analyses on issues affecting the Department of Treasury. One of the potential areas of analyses listed is "Identifying Strategies for Improving the Effectiveness of Drug Interdiction Programs in Curbing Illegal Drug Consumption." Has the Customs Service been involved in the development of this issue as a potential Treasury research effort?

Commissioner von Raab: No final decisions have made regarding the FY 1990 study plan for Departmental Offices. The studies included in the Congressional submission are illustrative and reflect current thinking on potentially important issues. The Department will apprise you of our finalized study plan once it is determined.

COMMERCIAL OPERATIONS

Senator Domenici: The FY 1989 "Salaries and Expenses" appropriation for the Customs Service provides an additional 640 full-time equivalent (FTE) positions for Customs Commercial Operations above the requested level. Where are you in meeting this enhanced Customs Commercial Operations staffing level? How will these additional positions allow you to improve commercial processing activities?

Commissioner von Raab: To achieve the directed staffing target, Customs hired individuals to more fully staff existing operational assignments, and has allocated additional positions in response to specific problems, both operational and geographic. As a result of this strategy, Customs believes it has been able to meet the most critical problems of

commercial processing at many locations. Merchandise and cargo imports are now flowing rapidly and efficiently through the ports-of-entry.

Senator Domenici: The FY 1990 Reagan budget request proposes a 396 FTE reduction in commercial staffing, and the transfer of these positions to the Inspection and Control enforcement program. This reduction of 396 FTE in commercial staffing undercuts last year's commercial operations staffing enhancement. The proposed reduction in commercial staffing is justified on the basis that productivity improvements will result from increased use of automation of commercial processing functions and the contracting out of other suitable functions.

Are we to believe that savings from automation and contracting out will allow us to eliminate these positions and at the same time maintain the enhanced level of commercial operations achieved in FY 1989?

Commissioner von Raab: Automated interfaces with the trade community play an important role in relieving Customs personnel from manual procedures. As the 1987 Treasury ACS study found, ACS improved worker productivity an average of 10 percent per year since 1984. The study also found that ACS had provided cost avoidance of 6500 positions that would have been required by workload growth and "that further staff reductions for commercial operations are not appropriate".

Expanded Automated Manifest System (AMS) participation by air and sea carriers will allow for savings of Inspection and Control support personnel resources. The electronic transmission of manifest data and automated notification of release of cargo will reduce the clerical workload. The Automated Commercial System (ACS) has also had a great effect on entry units which are responsible for the control of documents and information used in every step of the entry process, from initial presentation through payment of duties. The system has relieved personnel of many routine tasks, offsetting to some degree the dramatic increases in volume. Increased levels of participation in the Automated Broker Interface (ABI) and AMS will help Customs to meet the demands resulting from increases in complexity and volume of imports.

Senator Domenici: Can you be specific as to those commercial operations functions to be contracted out and the cost of contracting out these functions versus performing these services directly?

Commissioner von Raab: We can not be specific at this time. We are still doing feasibility studies.

Senator Domenici: What productivity savings have been achieved through automation in the last five years? What "rule of thumb" do you use to determine the total dollar and FTE savings resulting from automation?

Commissioner von Raab: In the 1987 Treasury study entitled "The Automated Commercial System, Impact on Customs Commercial Operations," it was found that ACS and other procedural changes had a major impact in controlling staffing needs in the face of dramatic escalation in the volume and complexity of workload. The study estimated that worker productivity increased an average of 10 percent per year since 1984 because of ACS. The study also found that ACS had provided cost avoidance of 6500 positions that would have been required by workload growth and "that further staff reductions for commercial operations are not appropriate". Thus productivity savings have enabled the Customs Service to keep up with ever expanding workload requirements without enormous personnel increases in a time of tight resources.

CONTRACTING OUT

Senator Domenici: Which activities has the Customs Service "contracted out" in the last five years? What savings have been achieved, both in FTE's and total dollars, from contracting out versus performing these services directly?

Commissioner von Raab: Customs completed its scheduled review of A-76 functions in FY 1986. Since then, contracts have been issued or reissued outside of the purview of the A-76 program. Therefore, we do not have any way of capturing data on FTE or dollar savings achieved from contracting out. In terms of activities contracted out, about 50 percent of our field data entry support has been contracted out, in many cases in small contracts of 10 or fewer FTE. Customs also has many contracts in the areas of ADP; automotive, vessel, radar, and aircraft maintenance and repair; employee counseling; maintenance/sale of seized property inventory; architecture/engineering services; drug screening; cartage; guard service; messenger service; portions of background investigations; certain types of training; and certain aspects of procurement support.

TREASURY ENFORCEMENT COMMUNICATIONS SYSTEM II (TECS II)

Senator Domenici: The FY 1990 request includes $5 million for TECS II terminals. How many terminals will be purchased with these additional funds?

Commissioner von Raab: The FY 1990 budget initiative entitled TECS II Terminals is intended to cover the purchase of 375 terminals (personal computers) and associated charges. In addition to terminals, a portion of the $5 million requested will be required to install these devices and provide users with access to Customs Consolidated Data Telecommunications Network. The projected increase in use of Customs automated systems created by the availability of these terminals will necessitate the procurement of additional disk drives to provide greater storage capacity. Furthermore, front end processors will also be purchased with the requested funds to handle the increased traffic from those trying to access the mainframe computers and to ensure that information is made available to users as efficiently and expeditiously as possible. Thus, the cost of purchasing a terminal includes much more than the cost of the device itself.

AIRPORT SECURITY PROGRAM

Senator Domenici: Customs recently amended its regulations controlling access to Customs areas at airports to include provisions enabling Customs to assess liquidated damages for violations of these regulations. Why were the regulations changed?

Commissioner von Raab: Since the inception of Customs Airport Security Program in 1986, Customs experience revealed frequent violations of the security area provisions. These violations range from employees being found in the areas without the appropriate clearance to employers failing to conduct and record the results of background checks required by these regulations. The violations coupled with the indifference displayed by some employers pointed to the need for an effective enforcement mechanism. The requirement that employers post a bond which provides for the assessment of liquidated damages for violations is necessary to enforce compliance.

Senator Domenici: How many liquidated damages have been assessed since the change to the regulations?

Commissioner von Raab: There were 408 liquidated damage notices issued from September 2, 1988, to December 31, 1988. The liquidated damages are in varying stages of mitigation, so the amount collected to date is unknown. The minimum assessment for each notice is $1,000, however, this is subject to appeal.

Senator Domenici: How many employers have been assessed liquidated damages?

Commissioner von Raab: The liquidated damage notices were issued to 67 employers. These included both service companies and airlines.

OCDETF TRANSFER

Senator Domenici: The FY 1990 request reflects the transfer of $14.461 million and 226 FTE to the Department of Justice for the Organized Crime Drug Enforcement Task Force, as required by the Anti-Drug Abuse Act of 1988. As I understand it, these 226 FTE would remain at Customs but would be paid for by reimbursement from the Justice Department. Does any agreement exist with Justice to assure Customs full reimbursement for these positions?

Commissioner von Raab: The Acting Associate Attorney General has assured Customs that the expectation for all agencies in the OCDETF Program for FY 1990 should be a reimbursement of their original budget submission except as modified by recommendations made through the Executive Review Board to the Attorney General for his consideration. Other than the above, Customs has received no assurances from the Department of Justice as to levels of reimbursement for FY 1990 and beyond.

Senator Domenici: What would be the impact on Customs if the Justice Department decided to alter the number of Customs positions required for the Organized Crime Drug Enforcement Task Force or if sufficient funds were not available for Justice to fully reimburse OCDETF participants?

Commissioner von Raab: Customs would not be able to absorb positions not reallocated. There is the real possibility that, under current budgetary constraints, the Customs Service would be required to institute reductions in force (RIF) to account for the positions lost to the Department of Justice. The net effect would be that federal law enforcement efforts in drug smuggling and money laundering investigations would be less effective. Many federal prosecutors will tell you that the Customs agent lends a specialized expertise to our war on drugs.

DOJ LEGAL OPINION

Senator Domenici: I understand that the Office of Legal Counsel of the Department of Justice has issued an opinion addressing the authority of the United States Customs Service to seize and forfeit property or assets under Section 881 of Title 21 of the United States Code. Has that legal opinion been issued?

Commissioner von Raab: The Office of Legal Counsel (OLC) has in recent years rendered several opinions indicating that the Customs Service has no independent Title 21 seizure authority. However, it was not until November 23, 1988, that an opinion was rendered by the OLC which concluded that the Customs Service also had no independent Title 21 forfeiture authority, that Customs agents could only seize and forfeit property pursuant to Section 881 when they assist the Drug Enforcement Administration under designation by the Attorney General.

Although the Customs Service disagrees with the opinions issued by the OLC, we are currently moving forward with the implementation of a Title 21 cross-designation program as delineated in the February 9, 1989, MOU signed by the Acting Associate Attorney General, and the Assistant Secretary of the Treasury. The Customs Service has entered into this agreement under the premise that the ability of our Special Agents and Criminal Investigators to aggressively pursue drug smuggling cases is not diminished, and that the Customs Asset Sharing Program is not adversely affected.

Senator Domenici: How will it affect management of Title 21 investigations for which Customs Investigators have been cross-designated?

Commissioner von Raab: As previously stated, the Customs Service, in a spirit of cooperation, is moving forward with the Title 21 cross-designation program in order to present a united and effective narcotics enforcement effort.

Senator Domenici: How will this legal opinion affect forfeited cash and/or proceeds of forfeited property currently deposited in the Customs Forfeiture Fund?

Commissioner von Raab: We believe that the opinion rendered by the OLC will have no impact on proceeds previously deposited in the Customs Forfeiture Fund.

AEROSTATS

Senator Domenici: What percent of time, on average, are the aerostats which are now on line operational? What percent of the time are they down due to weather conditions? What percent of the time are they down for maintenance and repair?

Commissioner von Raab: For FY 1988, the two Air Force, one Coast Guard and one Customs operational aerostats were, on an average:

Up And Operating.....51%

Down For Weather.....24.25%

Down For Maintenance.....18.25%

Down For Other Administrative
Contractual or Security Reasons..... 6.5%

Senator Domenici: What is the optimal level of operational capability for an aerostat?

Commissioner von Raab: The contract calls for a 95 percent effectiveness level. This is based on calculations that take into account weather downtime, maintenance, time at operational altitude and factors beyond control of the contractor.

Westinghouse Defense and Electronics Systems Company states that the 71 meter aerostat is capable of remaining on station for up to thirty days. The Customs Service presently uses a conservative planning percentage figure of 5,256 hours per year or 60 percent on station availability. This planning figure realistically accounts for reasonable maintenance projections and the peculiarities of both tropical Caribbean and Southwestern U.S. weather systems.

U.S. Customs is setting up a central weather network which includes among other things state-of-the-art, "wind profilers" to minimize weather downtime.

Senator Domenici: When will the Deming, New Mexico Aerostat become fully operational?

Commissioner von Raab: The Deming system completed acceptance testing and achieved Final Operating Capability on March 22, 1989.

Senator Domenici: What is the current schedule for completion of the Southwest Land Border Aerostat Network?

Commissioner von Raab: The sixth and last aerostat to be deployed along the Southwest Border at Rio Grande City, Texas is scheduled to be operational (Final Operating Capability) on January 24, 1990.

Senator Domenici: When is the George Town Balloon in the Bahamas scheduled to become fully operational?

Commissioner von Raab: The George Town system is scheduled for Final Operating Capability on November 7, 1989.

Senator Domenici: I understand that the third Bahamas aerostat planned for Great Inagua Island is being placed on the Southwest Border. Why was this decision made and when and where will this aerostat become operational? Is there still a need for an aerostat at Great Inagua or is this need being fulfilled in some other manner?

Commissioner von Raab: In brief, the decision to divert the system originally planned for Great Inagua to Rio Grande City, Texas was made on the basis of time, money and a sense of urgency to get as many aerostat radar systems up and operational as soon as possible. Under the best of all possible conditions a Great Inagua site could not possibly be ready until mid- to late-1990. A site at Rio Grande City will be ready by October 1989 coincident with the G.E. system delivery. This was predicated upon notification to G.E. by December 1988.

There is definitely still a need for low-altitude surveillance in the Southern Bahamas. DOD is currently studying the feasibility of using alternate systems in this area.

Senator Domenici: No one seems to debate the radar surveillance capability of the aerostats when they are up and working; however one of the disadvantages of these radars appears to be their high susceptibility to grounding for maintenance and repair or weather conditions. Obviously, when they are down, we have removed the blanket of continuous radar surveillance they provide and air smuggling operations can go undetected. What is being done to backfill the gap created when the aerostats are not up and operating?

Commissioner von Raab: Upon completion of the Southwest Border Aerostat Network, gaps in the then completed chain can be filled by P-3 AEW's.

Senator Domenici: Once the Southwest Land Border Aerostat Network is complete, the Gulf of Mexico will be the only portion of our southern border not under continuous radar coverage. I understand that we have several options to provide coverage of the Gulf. We can either install land-based aerostats along the gulf, provide coverage of the Gulf with a mix of ground-based radars and airborne surveillance platforms, or move to Sea-Based-Aerostats (i.e. aerostats on oil-rig-type platforms). Have you studied these or other options? What is the cost effectiveness of each? To what extent should we hold up now and see how effective the Southwest Land Border Aerostat Network proves to be before we invest in additional aerostats?

Commissioner von Raab: Other options have repeatedly been studied and the results are always the same. The Aerostat Borne Radar is undeniably the most cost-effective form of low-altitude surveillance in both cost per flight hour of approximately $ 500 per hour and system and site acquisition cost of approximately $ 18 Million. The effectiveness of the aerostat has already been proven in the South-Florida and Caribbean areas. However, a policy determination is required to designate which agency should receive appropriations for this purpose.

PUERTO RICO

Senator Domenici: In FY 1988, $7.8 million was provided to Puerto Rico for installation of an aerostat radar surveillance system. What is the total amount required for the Puerto Rico aerostat?

Commissioner von Raab: Present estimates project a funding requirement of about $ 11.2 million.

Senator Domenici: Has Customs provided any additional funding to cover the cost of this aerostat?

Commissioner von Raab: Customs has committed to $1.4 million of its own program funds and will provide an additional $0.6 million if needed.

Senator Domenici: How much is Puerto Rico providing to fund the cost of this aerostat?

Commissioner von Raab: Excluding the transfer of the $7.8 million in grant monies provided under the provisions of Public Law 100-202, the Government of the Commonwealth of Puerto Rico has committed itself to $2.0 million to fund the aerostat. These funds will be transferred to the U.S. Customs upon the execution of a Memorandum of Agreement between the two signatories.

Senator Domenici: When is the Puerto Rico Aerostat expected to become operational?

Commissioner von Raab: Current estimated Final Operating Capability (FOC) is March 1990.

Senator Domenici: Once the Puerto Rico Aerostat becomes operational, can it be supported by the Puerto Ricans' Air Interdiction Aircraft or will it be necessary to deploy Customs tracking and apprehension aircraft to support this aerostat?

Commissioner von Raab: The deployment of an aerostat in Puerto Rico is an effort totally planned

and under the operational control of Forces United For Rapid Action (FURA), an arm of the Government of the Commonwealth of Puerto Rico. Presently, there are no indications that FURA aircraft will be unable to respond to aerostat detections of suspected smuggler aircraft. Additionally, Customs presently has deployed in Puerto Rico an Aviation Unit consisting of five personnel and two aircraft. Additional support is available on call from the Miami Aviation Branch, Guantanamo Bay Aviation Unit and long-range surveillance support from Corpus Christi.

Senator Domenici: What plans are underway to construct a mini-command and control center in Puerto Rico? What will be the cost of this facility? How would such a center in Puerto Rico be linked with C3I East?

Commissioner von Raab: The Government of the Commonwealth of Puerto Rico has tentative plans to establish a command and control facility to be located at the U.S. Federal Aviation Administration Center in San Juan. This facility is to be funded by Puerto Rico (Customs has no cost estimates at this time). The center is envisioned to be an integral component of the Caribbean Basin Radar Network (CBRN) which will be linked to C3I East via JTF-4 in Key West.

AIRCRAFT

Senator Domenici: What aircraft are currently being operated by the Customs Service? How are these aircraft currently deployed?

Commissioner von Raab: The U.S. Customs Service presently operates the following aircraft which are deployed throughout ten Aviation Branches and nine Aviation Units:

AIRCRAFT TYPE	TOTAL
DETECTION:	
P-3B AEW	2
P-3A	4
E-2C	2
INTERCEPTORS:	
Citation II	10
TRACKERS:	
Piper Cheyenne IIIA (CHET)	8
APPREHENSION:	
UH-60A Black Hawk	16

ENFORCEMENT SUPPORT:	
Beechcraft King Air 200	4
Beechcraft King Air (E-90)	1
C-12 (Beech King Air 200)	6
Twin	27
Single-Engine	8
Helicopter	7
TOTAL	95

Senator Domenici: What aircraft have been funded but are not yet operational?

Commissioner von Raab: Six additional Citation II interceptor/tracker aircraft have been funded. All of these aircraft are scheduled for delivery and will be operational in FY 1989.

Three support helicopters have been funded. This has been a competitive procurement activity. A contract award has been made with the delivery of all three helicopters expected in FY 1989.

Seven NOMAD maritime patrol aircraft are expected to be delivered in FY 1989 as part of a DOD barter agreement. These aircraft are fully funded.

Senator Domenici: Which planned aircraft procurement/modifications/conversions will be funded in FY 1989 and by the FY 1990 request? Which remain unfunded? Please be specific.

Commissioner von Raab: The following aircraft procurements/modifications/conversions are being executed with FY 1989 funds:

Citation Program - Nine million dollars in FY 1989 funding was added to the program to complete the acquisition of six aircraft. This is now fully funded. However, there is no funding, at present, for the final acquisition of ten aircraft.

P-3 AEW - There is no FY 1989 funding for this program, however, $7.0 million from the 1988 Drug Bill will be used for procurement of an additional P-3 AEW radar.

Black Hawk helicopters - No specific funds were provided from the FY 1989 budget for modification of the four additional UH-60 Black Hawk helicopters that Customs will be receiving from the U.S. Army. These aircraft are being modified with FY 1989 O&M funds.

There is presently no funding in FY 1990 to continue with any aircraft procurements/ modifications/conversions.

Senator Domenici: What are the long-term aircraft needs of the U.S. Customs Service? More specifically, over the next 5 years, what aircraft do you project will be needed to fulfill Customs Air Interdiction Mission requirements? At what locations are these aircraft needed?

Commissioner von Raab: The long-term aircraft needs of the U.S. Customs Service are outlined in chart format below:

AIRCRAFT	REQUIREMENT	NEED
P-3 AEW Detection	4	Two additional aircraft
P-3 A (Blue Star)	2	One additional aircraft modification
Citation II Interceptors	26	10 additional aircraft
CHET PA-42 Trackers	8	Sensor improvements
UH-60 Black Hawk Helicopters	16	None

All of the P-3 aircraft will be based at Corpus Christi, Texas, but are capable of temporary deployment to other locations as mission requirements may dictate. The Citation and CHET aircraft will be assigned; four aircraft to each of the eight operations branches and two aircraft for forward deployment. The UH-60 Black Hawk helicopters are assigned: two helicopters to each of the eight operations branches.

Recently, DOD was assigned the lead agency role in providing for detection and monitoring of suspect aircraft attempting to enter the United States. As DOD comes on-line to supplement current efforts, a reassessment of Customs airborne detection needs will be made. This assessment may impact the long-term detection needs of the Service.

It is important to remember that the National Drug Policy Board never formally adopted the strategy drafted by the Interdiction Committee. We await the input of the Director of National Drug Control Policy on this matter.

Senator Domenici: What are the long-term aircraft needs of the U.S. Customs Service? More specifically, over the next 5 years, what aircraft do you project will be needed to fulfill Customs Air Interdiction Mission requirements? At what locations are these aircraft needed?

Commissioner von Raab: We look forward to working with the Drug Czar on this issue. Congress created this position so that individual agencies would not proceed with the War on Drugs in piecemeal fashion. The last official strategy we had was the air strategy prepared by the National Drug Policy Board. However, the Anti-Drug Abuse Act of 1988 eliminated this organization, created a Director of National Drug Control Policy and charged him with the development of an overall National Drug strategy.

Senator Domenici: Where are you on your effort to standardize the Customs air fleet? How is this standardization effort being carried out at each of the Air Branches? What cost savings, if any, will be achieved as a result of standardization?

Commissioner von Raab: The types of aircraft required for the various missions have been reduced to lowest possible level with the exception of support aircraft. Currently, the Customs Service has 22 different types of support aircraft. By replacing approximately 14 aircraft, Customs hopes to reduce that number to about 7 types of support aircraft. Overall, standardization at the Air Branches is being carried out in accordance with the national standardization plan. This plan calls for the realignment of existing aircraft and the acquisition of replacement support aircraft through forfeiture proceedings. Realignment with existing aircraft includes:

- Realigning King Air 200 and C-12 aircraft between the Albuquerque and San Angelo Air Branches. Although they are similar in some respects, they are also different in others.

- Realigning Piper Cheyenne (CHET) and Citations so that the CHET aircraft are assigned to two Air Branches and all other Citations are assigned to the other six Air Branches.

As a result of standardization, Customs expects cost savings in the areas of pilot and maintenance training, operations, and maintenance.

Senator Domenici: In FY 1988, how many hours were flown by each of your mission and support aircraft?

Commissioner von Raab: In FY 1988, Customs flew a total of 40,621 hours. These hours (by type of aircraft) are broken down as follows:

Detection

2	E-2Cs	-	667
4	P-3As	-	4,787
1	P-3AEW	-	308
			5,762

Interceptors

6 Citation - 4,249

Trackers

8 CHETS - 4,858

Apprehension

12 Black Hawks - 4,374

Enforcement Support

All Types - 21,378

Senator Domenici: What are the total operating costs per hour of operating and maintaining the P-3 AEW versus the E-2C aircraft?

Commissioner von Raab: Total costs (including contractors, travel, DOD support agreements, fuel, oil, spares, etc.) are $11,876/hr. for the E-2C and $2,518/hr. for the P-3.

The E-2C costs are excessive because of groundings due to wing cracks and the time for those repairs, as well as associated repair expenses.

Senator Domenici: Since taking delivery of the first P-3 AEW aircraft, what problems have you encountered with that aircraft and its systems? Have these problems been resolved? What has been the cost?

Commissioner von Raab: During the first month of operations, the AEW systems had problems with computer AYK-14 failures, MDS (Miligraphic Display System) hangups, IFF false targets, and unreliable target tracking.

The Lockheed AEW program has borne the cost to fix or repair the AEW system problems. The MDS hangups have been corrected and now operate within limits. IFF false targets still occur, but the number has been substantially reduced and Lockheed AEW Program office is reviewing data to further decrease the number of false targets. Unreliable target tracking has been addressed, the system tracking has improved substantially, and the Lockheed AEW Program office is continuing to improve the target tracking.

Senator Domenici: When will we take delivery of the second P-3 AEW aircraft? What is the status of funding for the third and fourth aircraft? This funding is not included in the FY 1990 request; was it initially requested by Customs for FY 1990? What

additional amount is required for FY 1990 to procure the third and fourth P-3 AEW aircraft?

Commissioner von Raab: The second P-3 AEW was delivered in April of this year. The third P-3 AEW is in initial planning stages. Additionally, the Anti-Drug Abuse Act of 1988 provided $7 million, which we will use to buy a third radar unit. We look forward to working with the Drug Czar with regard to modifying units three and four. If it were decided to do so, we would need an additional $63 million.

Senator Domenici: The FY 1990 budget proposes that Customs transfer its two E-2Cs to the Coast Guard, along with $10.4 million for their operation and maintenance. As I recall, the "deal" was that the E-2Cs would be transferred over to the Coast Guard once Customs took delivery of four P-3 AEW aircraft. What will be the impact on Customs airborne radar surveillance capability if the E-2Cs are transferred prior to acquisition of all four P-3 AEWs? Is $10.4 million the actual cost Customs incurred to operate and maintain its two E-2C aircraft in FY 1989?

Commissioner von Raab: Although some impact can be expected, we believe that the impacts are minimized due to the accelerated deployment of aerostats along the Southwest border this year. Our P-3 detection resources, coupled with added DOD support, will be adequate for aerostat gap filler coverage and to patrol the arrival zones along the U.S. coastlines.

The $10.4 million represents an estimate for FY 1990 expenditures. We project an expenditure of approximately $9 million to operate and maintain the two aircraft during FY 1989.

Senator Domenici: Customs expects to take delivery of seven Nomad aircraft during the second quarter of this fiscal year. What is the capability of these aircraft? Where will they be deployed?

Commissioner von Raab: The Nomads incorporate a 360° marine detection radar capable of detecting and tracking up to 20 targets simultaneously at a range of 20 to 25 nautical miles. The installed infrared can be locked to the radar for positive identification. These aircraft will be deployed as follows: two each at Miami and New Orleans and one each at Tampa, New York, and San Diego.

AIR BRANCH FACILITY REQUIREMENTS

Senator Domenici: What are the Customs Service's short- and long-term Air Branch facility needs?

Commissioner von Raab: In the very near future, it is going to be necessary to build hangar and office space for our Jacksonville Aviation Branch. We are located at the Navy Base in Jacksonville and the Navy has requested that we move from our present facility due to the Navy's expanded operational growth. The Navy has included a site for the Aviation Branch in their 10-Year Plan.

At the Miami Aviation Branch, Homestead Air Force Base, based upon Customs air staffing goals and the aircraft projected to be in place by 1990, additional office and hangar space are required.

At the Surveillance Support Center, in Corpus Christi, Texas, a second hangar bay is needed. This is due to the multiple types of aircraft, each unique and requiring specific scheduled and unscheduled maintenance actions. Weather conditions also require space for aircraft storage to avoid considerable damage to non-flyable aircraft.

We are anticipating moving the Phoenix Aviation Unit into a larger hangar at the Sky Harbor International Airport in Phoenix. Construction of office space in the larger hangar will replace inadequate space now occupied by the Unit. This will also be more cost-effective in the long run.

Finally, some type of structure, possibly trailers, is needed to accommodate the Puerto Rico Aviation Unit.

Senator Domenici: Which projects are either fully or partially funded?

Commissioner von Raab: The Albuquerque, New Mexico, hangar facility is fully funded.

We do not have any facility improvements ongoing at the present time that are partially funded.

Senator Domenici: Which projects are included in the FY 1990 request?

Commissioner von Raab: We do not have any Air Branch facility projects in our FY 1990 request.

Senator Domenici: What is the proposed schedule for meeting your unfunded facility requirements?

Commissioner von Raab: In accordance with Administration concurrence, we will ask that we receive funding in future years.

AIR INTERDICTION ASSETS

Senator Domenici: What criteria do you use to determine the proper deployment of Customs air assets?

Commissioner von Raab: The Customs Service determines aircraft deployment locations based on information provided from several sources. Sources include input from Air Branch, Office of Enforcement, Intelligence, EPIC and other locations. This information, when correlated, is placed into a format that forms the basis of the aviation smuggling threat. Initially, interdiction resources were deployed based on the information provided by the threat analysis. Current U.S. Customs Aviation strategy takes into account not only the current threat level, but estimates where the new threat will be in the future. Aviation threat changes as new assets such as the aerostats and P-3 AEWs are brought on line. Customs then attempts to deploy assets in advance of the shift in air smuggling. This program is proving its value along the Southern border of the United States.

AIR INTERDICTION

Senator Domenici: How do you measure the operating effectiveness of each of your air branches? Are the seizure statistics of each individual air branch considered?

Commissioner von Raab: Since 1982, Aviation Operations has collected certain aviation smuggling data which we analyze and collate into a national aviation threat estimate broken down by geographical border areas. The criteria used to develop these estimates are based on air intrusion reports, seizures, crashes, lookouts and report of stolen aircraft suspected of being used in aviation smuggling. By noting changes in these estimates we can determine any deterrence or displacement of the threat, thereby showing national or regional enforcement effectiveness.

The Stanford Research Institute (SRI), an independent research institute, developed a formula to measure the probability of effectiveness of the Customs Aviation Interdiction Operations:

$$P_E = P_D \times P_S \times P_I \times P_A$$

This formula states that the probability of effectiveness as a percentage (P_E) is the product of the probabilities of accomplishing detection

(P_D), sorting (P_S), interception (P_I) and apprehension (P_A) of an intruding aircraft.

This criteria was developed based on an extensive study of the problem. Though the formula calculates probabilities, based on an unknown universe, the statistical approach, mathematics involved and probable inferences are the only known scientifically sound measurement developed specifically for this purpose.

No single component of this country's anti-drug enforcement effort can be measured or evaluated in isolation. All components, interdiction, investigations, education, etc., must be effected and evaluated as a balanced whole.

AIR INTERDICTION

Senator Domenici: One of your stated objectives in FY 1990 is to develop a comprehensive database for threat analyses necessary to improve program strategy, plans and tactics. What additional data is available to make a more accurate threat assessment? For example, I understand your current air threat analysis is derived from five weighted indicators -- intrusion reports (targets not proved legal), aircraft seizures, narcotics-related air crashes, stolen aircraft, and transponder installations. All of these indicators record only what we can verify, not what we can't. How accurate is your current air threat analysis? In FY 1988, for example, what percentage of the total national threat did this threat assessment indicate for each of the seven geographic regions? What percent of total Customs cocaine seizures in FY 1988 did each of these seven geographic regions represent?

Commissioner von Raab: Customs Offices of Aviation Operations and Intelligence have evaluated many different types of air smuggling indicators. The five indicators used by Customs best reflect the most accurate available data on the air smuggling threat. Other sources of information have not been proven reliable.

All indicators used to determine air threat come from documented sources. Reports derived from this information have proven useful in interdiction planning by Aviation Operations. We feel this threat analysis to be indicative of the general distribution of the actual air threat.

The percentages of national threat for FY 1988 by geographic area are as follows:

REGION	%
Pacific - Mid California and North	7
U.S./Mexican West Land - Southern California/Arizona	19
U.S./Mexican East Land - New Mexico/ Texas	28
West Gulf - Texas through Mississippi	14
East Gulf - Alabama/West Florida	5
Southeast - South Florida/Georgia	23
Northeast - South Carolina and North	4

The percent of cocaine seized by the Air Program in FY 1988 is as follows:

REGION	%
Pacific - Mid California and North	0
U.S./Mexican West Land - Southern California/Arizona	6
U.S./Mexican East Land - New Mexico/ Texas	8
West Gulf - Texas through Mississippi	8
East Gulf - Alabama/West Florida	2
Southeast - South Florida/Georgia	64
Northeast - South Carolina and North	12

Senator Domenici: What evidence can you provide us that our interdiction efforts are worth the investment? If we continue on the current funding path, at what point will the costs outweigh the benefits of further investment in detection and interdiction assets?

Commissioner von Raab: To date our air interdiction efforts have shifted the smugglers' incentives from South and Southeast Florida arrival zones, forcing them to resort to the more vulnerable and costlier tactic of the air drop. Similarly, initial indications along the Southwest U.S.-Mexico Border suggest that the air smuggler has been forced to deliver his cargo to Northern Mexico and warehouse the narcotics for further shipment by land conveyance to U.S. distribution points. This also is costlier

and adds to the vulnerability of transshipment operations.

The primary goal of the air interdiction strategy is to achieve a significant reduction in the volume of drugs being brought in by general aviation.

We believe, based on seizure trends, that the threat of smuggling via cargo containers has grown and our FY 1990 request seeks your support for a solution.

Assuming a continuous process of implementation of the strategy, 1992 is the estimated time period in which to achieve this effect. Trade-offs within the current strategy are inappropriate since it is dependent upon the functioning of all of its subsystems. Efforts beyond a fully implemented air strategy will require value/political judgements based upon the record of results achieved to include the deterrent effect which is difficult to quantify in terms of traditional cost/benefit analysis.

The shift in threat from an area does not mean that the interdiction efforts in that area are no longer needed. If our efforts in other locations were enhanced significantly, the threat could return to the original area of threat. Pursuit of drug profits could still inspire smuggling attempts. Smugglers will gravitate to the path of least resistance.

Senator Domenici: It appears that our drug interdiction efforts in the Bahamas and Caribbean continue to be plagued by interagency conflicts. What has been done to resolve these problems over the past several years? How many potential smuggling targets have been lost due to the lack of coordination and cooperation between the various Federal participants in our drug interdiction efforts in the Southeast; please be specific as to the participants in and particulars of each case.

Commissioner von Raab: The Director, Air Operations Center East (AOCE), has personally met with management of Federal agencies participating in efforts to resolve the conflicts. He also meets regularly with the U.S. Ambassador to the Bahamas to discuss law enforcement efforts. The problems, which relate to philosophy and command and control, have been surfaced through Customs chain of command to the The Interdiction Committee. The Director of AOCE recently met and travelled with a select, small group to the Bahamas to readdress the problems. To date the problems remain unresolved.

The computerized Customs Aviation Operations Reporting System provides us with a data base for the evaluation and analysis of Customs air

interdiction, related intelligence, and support efforts. We do not track other agency assets nor are the specific details of coordinated activities between agencies generally documented and available. Information which is retrievable depends entirely on the degree of Customs involvement during the interdiction action. Currently, there are no current programs to record the data relevant to lost targets due to lack of coordination and/or cooperation between Federal agencies. We are pleased to date with the overall law enforcement cooperation and effort put forth by other agencies throughout the Southeastern United States.

Senator Domenici: How many "Defense-In-Depth" missions has Customs participated in? What has been the result of each of those missions?

Commissioner von Raab: Customs has participated in a total of six Defense-in-Depth missions from July 1988 to present. Three of the missions resulted in no significant activity. Three missions resulted in multiple detections of suspect air and surface targets resulting in 8 arrests, seizures of 1 aircraft, 1 vessel, 800 lbs. of cocaine, and 2,480 lbs. of marijuana, 5,500 lbs. of marijuana destroyed by violators, and significant intelligence obtained for future exploitation.

SPARE PARTS

Senator Domenici: Your FY 1990 request includes $1.9 Million to procure spare parts for the P-3 AEW and the Citation II aircraft. To what extent will Customs remain reliant on the DOD inventory for aircraft spare parts? What status do you have within the DOD inventory to procure spare parts, if needed?

Commissioner von Raab: Customs reliance on DOD will remain at the 100 percent level for some airframes and radar spares; this will be accomplished via existing interagency agreements.

DOD has authorized Customs to use a force activity designator (FAD) code of 0-2 when ordering parts for a grounded aircraft. This authority grants Customs the same priority as line combat units in the requisition process.

SECURE COMMUNICATIONS

Senator Domenici: What efforts are being made to achieve secure communications between the C3Is, the air crews, and all interdiction operating elements,

including other Federal and local law enforcement participants in our nation's drug enforcement and interdiction efforts?

Commissioner von Raab: Customs Aviation presently has or is installing the following secure radios and security devices; a voice privacy network known as Customs Over The Horizon Enforcement Network, (COTHEN) HF; Vinson, (KY-58) an encryption device for UHF and Voice Privacy (VP110) VHF. The COTHEN has the capability of accepting the Parkhill (KY-75) secure encryption system. The aforementioned devices along with a common law enforcement crypto key material has recently been produced by NSA and should provide a secure interagency communication system.

The Command, Control, Communications and Intelligence Centers (C3I's) will be equipped to communicate on these various systems.

INTELLIGENCE

Senator Domenici: How well is available intelligence being analyzed and dispersed for interdiction purposes?

Commissioner von Raab: Increased emphasis was placed on the Customs intelligence function in 1983, and since that time our analysis and dissemination of intelligence for interdiction has continued to improve. We believe our system is working effectively, but we continue to develop ways to make it even better. In interdiction situations, timeliness of dissemination is often a critical factor. We have a 7-day-a-week, 24-hour-a-day Intelligence Operations Center (IOC) at Customs Headquarters which receives, analyzes, and disseminates intelligence on a real time basis.

The Treasury Enforcement Communications System II (TECS II) is a primary vehicle for dissemination and includes the capability for Intelligence Alerts, lookout records, and point to point unclassified electronic communication. TECS II links Customs Headquarters, Regional and District offices, investigative offices, ports of entry, C3I Centers, and air branches. The Drug Enforcement Administration (DEA) Headquarters, the El Paso Intelligence Center (EPIC), and some U.S. Coast Guard elements also have access to TECS II. Unclassified interdiction intelligence is also passed by telephone when appropriate.

Customs also has the capability to disseminate classified information by AUTODIN circuits or STU III.

Senator Domenici: What intelligence sources are being utilized by Customs in its interdiction efforts?

Commissioner von Raab: In each of our seven regions, Customs has a Regional Intelligence Division (RID), and each Special Agent in Charge and District Director office has Designated Intelligence Officers. These individuals are responsible for collecting intelligence from internal Customs information as well as by liaison with local, state, and other federal agencies within their area of responsibility.

At the national level, we have disseminated our intelligence requirements to all members of the Intelligence Community, and we received a large volume of reports from those agencies. We have a liaison officer assigned to DEA Headquarters, and Customs officers are assigned to DEA offices in two South American countries. Customs has 28 positions at the El Paso Intelligence Center (EPIC).

Customs is also working closely with the Department of Defense (DOD) in planning for the expanded role it has for detection and monitoring of smuggling conveyances.

Senator Domenici: How many Customs Air Intelligence Specialists are there currently? What is the need for more Intelligence Specialists?

Commissioner von Raab: There are 12 intelligence positions at C3I-West, 6 positions at C3I-East, and 6 positions at the Customs National Aviation Center for a total of 24 positions. We are in the process of transferring a position from our Headquarters to the Surveillance Support Center (SCC) in Corpus Christi, Texas. We do not see a need for additional Air Intelligence Specialists at this time.

Senator Domenici: Is effective tactical intelligence being communicated through the Command, Control, Communications, and Intelligence (C3I) Centers?

Commissioner von Raab: The C3Is are providing effective tactical intelligence considering the relatively recent implementation of this program. C3I-West is in its permanent facility and the intelligence staff operates on a 7-day-a-week, 24-hour-a-day basis. C3I-East is expected to move into its permanent facility in April 1989. The Customs National Aviation Center (CNAC) is still in temporary quarters.

We are working closely with the Department of Defense to insure proper coordination between the C3Is and the Joint Intelligence Centers (JICS) which

have recently been established in Florida and California. The additional intelligence available from the JICS will be used to augment that currently available at the C3Is.

Senator Domenici: What efforts are currently being made to develop an effective tactical intelligence system?

Commissioner von Raab: We believe that over the years Customs has developed an effective tactical intelligence system. In an answer to a previous question, I described our 7 x 24 Intelligence Operations Center (IOC) and the timely dissemination of intelligence through TECS II. Notwithstanding our belief that the current system is effective, we continue to attempt to improve it.

In FY 1988, Customs seized over 140,000 pounds of cocaine. Our statistical data base indicates that 57.6 percent of this amount was based on prior information. In the first quarter of FY 1989, Customs seized almost 43,000 pounds of cocaine and 63.1 percent of that amount was based on prior information. I believe that these figures are good indicators of the effectiveness of our tactical intelligence systems.

Senator Domenici: What is the need to integrate national community intelligence with law enforcement intelligence?

Commissioner von Raab: Customs fully recognizes this need and has worked closely with the National Intelligence Community (IC) for a number of years. Customs intelligence requirements have been disseminated to the IC agencies, and we regularly receive reports responding to these requirements.

The IC has collection capabilities not available within Customs and in locations where there is no Customs presence. We integrate that reporting into our system for strategic planning and when possible for tactical use. As you know, most IC reporting carries national security classifications and handling caveats. Our system is designed to receive, store, and process reports in complete compliance with the level of classification.

COLUMBUS PORT OF ENTRY

Senator Domenici: Would you please provide the number of border crossings and imports/exports between the U.S. and Mexico through the Columbus, New Mexico port of entry in 1988?

Commissioner von Raab: Within the geographic limits of the port of Columbus, we have one land border crossing facility, at Columbus itself. In 1988, more than 292,000 vehicles and 883,000 persons entered the United States through this facility.

Data on the value and commodity composition of imports/exports are not available from the Census Bureau on a port basis. However, we are able to provide the following indicators of the volume of trade through the Columbus port:

	1987	1988
EXPORTS:		
Shippers Export Declarations	1,318	1,466
IMPORTS:		
Trucks Entering	4,167	2,022
Merchandise Releases	3,208	2,662
--formal entries	1,690	1,237
--informal entries	1,517	1,424
--warehouse	1	1

Senator Domenici: As you know, we have just completed construction of a new replacement facility at Columbus, New Mexico. What is your current staffing level at this facility? Will your staffing requirements increase at Columbus as a result of the border facility expansion?

Commissioner von Raab: In December 1988, a new $2.7 million border facility was completed. That facility will be dedicated in March 1989. As of March 1, 1989, Customs employed 19 inspectors (including one port director, two supervisors and two senior inspectors), 2 canine teams and 3 clerical assistants. For our commercial and enforcement responsibilities, we can function properly with this level of staff. However, in order to make most effective use of this new larger facility, we could use the services of 5 more inspectors. This new level would allow adding 1 - 2 inspectors more per shift at this 24-hour port.

USER FEES SERVICES AT CERTAIN SMALL AIRPORTS

Senator Domenici: The FY 1990 request proposes to reprogram funds within the "User Fees at Certain Small Airports" account primarily to increase funding

for full-time permanent positions by over 100 percent. What is the justification for this reprogramming request? I note that if approved, no funds will be available for the "Equipment" or "Other Personnel Compensation" object classifications, as previously requested, and funding for the "Civilian Personnel Benefits" and "Other Rents, Communications and Utilities" object classifications will be substantially reduced. What impact will this have?

Commissioner von Raab: As we have gained experience with this program, we find the expenditures are not what we initially anticipated. The changes for FY 1990 are based on our actual operations in FY 1988.

SMALL AIRPORTS

Senator Domenici: Which airports are now designated to receive Customs Services on a user fee basis? Which additional eight airports will receive this designation in FY 1989? Are any additional airports expected to be designated in FY 1990?

Commissioner von Raab: Designated airports include Allentown, Bethlehem, Easton, PA; Fargo, Hector Airport, ND; Fort Wayne, IN; Jackson, MS; Klamath Co., OR; Lebanon, NH; Midland, TX; Morristown, NJ; Casper, WY; Oakland-Pontiac, MI; Rickenbacker, Columbus, OH; Dona Ana County, NM; Ft. Meyers, FL; Wilmington, OH; Waukegan, IL; St. Paul Island, AK; and Lexington, KY.

Six applications are pending. Requests for service are requested from Kenai Peninsula, AK; Sanford, FL; Rockford, IL; Moses Lake, WA; Ontario, CA; and Sioux City, IA. Interest in the program has been expressed by Ashville, NC; Bismarck, ND; Boise, ID; Nome, AK; Otay Mesa, CA; and San Jose, CA.

To date, we have not been notified of any other airports that may be interested.

FORFEITURE FUND/ASSET SHARING

Senator Domenici: What is the justification for the proposed 1989 reprogramming of funds among the various object classifications inside the Forfeiture Fund account?

Commissioner von Raab: Planning for future expenditures from the Customs Forfeiture Fund is difficult because of the varied nature of the uses of the Fund authorized for the Customs Service. Many of

these expenditures are related to the operations and resulting seizures whose proceeds are eventually deposited into the Fund. Our budget estimates, developed for a fiscal year two years into the future, generally are based on the most recent prior fiscal year's experience. However, this may or may not turn out eventually to be representative of the budget year's experience, for reasons which are largely out of the control of the Customs Service. For instance, if we seize a large number of conveyances which are converted to government use, then we may spend more than we planned, from the "Equipment" object classification, to outfit them for law enforcement use. Or, as another example, we may find more opportunities to purchase items used as evidence in smuggling cases. As you can see, it is difficult to create a realistic object classification breakdown for these kinds of expenditures two or more years in advance, as the budget process requires.

Senator Domenici: What is the estimated permanent budget authority level required in each of FY 1989 and 1990 for non-discretionary uses of the Customs Forfeiture Fund?

Commissioner von Raab: Our estimate for the permanent budget authority requirement is approximately $20 million each year for FY 1989 and FY 1990.

Senator Domenici: What is the anticipated unexpended Forfeiture Fund balance in each of FY 1989 and FY 1990?

Commissioner von Raab: For the FY 1990 President's Budget, we are estimating we will have unexpended balances which will allow us to return $10 million to the Treasury general fund in FY 1989 and $5 million in FY 1990. However, due to the uncertainty of the law enforcement actions which result in the seizures whose sale proceeds are the receipts into the Fund, it is difficult to accurately predict the amount of deposits into the Fund. Since the expenses of the Fund and, hence, the amount of the permanent indefinite appropriation which covers those expenses, are related to the level of receipts, if the volume of seizures rises, the size of the permanent indefinite appropriation also rises. Thus, it is impossible to predict the level of surplus with any degree of certainty.

Senator Domenici: Under the provisions of the Anti-Drug Abuse Act of 1988, the amount authorized to be appropriated from the Fund was raised to $20 million; the Coast Guard is authorized to share in the proceeds of the fund derived by seizures from the Coast Guard only if an appropriation in excess of $10 million is provided.

Your FY 1990 request is $10 million. Was this your original request? If so, did you consider the fact that the Coast Guard will not be able to share in the Fund's proceeds unless this appropriation request is higher?

Commissioner von Raab: Our initial request was for $25 million, but this was before enactment of the Anti-Drug Abuse Act of 1988 and the authorization for the permanent indefinite appropriation. Previously we did not consider Coast Guard use of the Fund because the initial authorization for the Coast Guard use of seizure sale proceeds from the Fund was contained in the Anti-Drug Abuse Act of 1988.

Senator Domenici: What amount is now being paid out of the Fund to State and local law enforcement agencies for overtime, travel, fuel, training and equipment costs incurred as a result of their participation in joint operations with the Customs Service?

Commissioner von Raab: Last fiscal year the Customs Service paid out approximately $272,000 to State and Local Law Enforcement Agencies in support of joint operations, and spent $1,724,000 for radios for state and local agencies.

This fiscal year the Customs Service has committed $1,750,000 in the Forfeiture Fund to reimburse state and local law enforcement agencies for their expenses in support of joint special operations. Also, an additional $1,300,000 has been identified in the Forfeiture Fund for the procurement of radios to be used by State and local law enforcement agencies.

Total Forfeiture Fund resources for FY 1989 earmarked for State and locals amount to $3,050,000.

FORFEITURE FUND

Senator Domenici: What is the status of our contract with Northrop for handling Customs forfeitures? What is the annual cost? How does the investigation into Northrop affect this contract? What are the average costs of handling and managing forfeited vehicles and conveyances until their disposal?

Commissioner von Raab: The U.S. Attorney for the Eastern District of Texas is presently conducting a Grand Jury investigation of Northrop Worldwide Aircraft Services, Inc. with respect to their contract with Customs for the custody, management, and disposition of seized property. Customs has pledged complete support to this effort and will

cooperate in every way possible. Until the results of the investigation are made public, the operational status of the contract remains "business as usual".

This contract will be recompeted for a second five-year period beginning with FY 1990. In preparation for this new contract, the contractor-operated automated seized property system is currently being transferred to the Customs Data Center. Additionally, numerous internal controls have been incorporated into a comprehensive contract Statement of Work. Contract award is scheduled for August 1989.

The total cost for this contract in FY 1988 was $15,756,519. The average subcontractor costs for the custody, management, and disposition of seized conveyances for FY 1988 are provided below.

	VEHICLES	VESSELS	AIRCRAFT
Average Cost/Unit	$806	$5,844	$4,556

***NOTE: THIS SIMPLE AVERAGE ASSUMES ALL UNITS ARE EQUAL AND DOES NOT DIFFERENTIATE ACCORDING TO PHYSICAL SIZE OR SERVICES PERFORMED.

ASSET SHARING

Senator Domenici: What forfeitures and other assets did the Customs Service turn over to state and local law enforcement agencies in FY 1988? What forfeited property have we turned over to state and local law enforcement agencies participating in seizures in FY 1989?

Commissioner von Raab: I have included the value of forfeiture assets transferred to state and local law enforcement agencies by Customs region in FY 1988 and FY 1989 (through January):

REGION	FY 1988	FY 1989 (as of 1/31/89)
NORTHEAST	$ 410,773	$ 151,357
NEW YORK	25,426	111,569
SOUTHEAST	2,699,041	0
SOUTH CENTRAL	234,452	33,911
SOUTHWEST	430,937	310,404
PACIFIC	7,306,392	5,990,163
NORTH CENTRAL	60,645	63,390
TOTAL	$11,167,666	$6,660,794

QUESTIONS SUBMITTED BY SENATOR D'AMATO

DEFENSE DEPARTMENT INTERDICTION PLAN

Senator D'Amato: I want to make it very clear that I favor a strong Customs Service role in combatting drug smuggling by air. I am very concerned by what appears to be growing confusion about the future role of the Customs Service Air Interdiction Program.

The Defense Department has to accept some of the responsibility for this confusion. It was supposed to submit a report to the Congress by January 1 on its plans to integrate Customs and other agencies' surveillance and communications assets to combat drug smuggling. It has still not done so.

What do you know of the Defense Department plan, and how will it affect the assets you have available to combat drug smuggling by air?

Commissioner von Raab: Senator, the Defense Department plan has not been finalized, so I am unable to comment in detail. However, we expect that the DOD would improve our intelligence and detection posture so that we can optimize the employment of our limited interceptor/tracker and apprehension resources.

Senator D'Amato: Do you know exactly how the role of the Customs Service under this new Defense Department plan will be different from the Air Interdiction Strategy announced by the Drug Policy Board only last year?

Commissioner von Raab: The DOD plan has not been finalized, so I am unable to comment in detail. However, we believe that the additional DOD capability should represent an enhancement to the existing strategy rather than reinventing the wheel.

Senator D'Amato: Do you know how the Defense Department plan will affect your air interdiction budget?

Commissioner von Raab: At this preliminary stage it is difficult to project any impact on the Customs budget. We do not expect any impact. We would expect DOD to fund its own activities in this regard.

Senator D'Amato: Do you know how the mission of the Customs Command, Control, Communications and Intelligence Centers will be affected by the new Defense Department plan?

Commissioner von Raab: We would expect the DOD to provide intelligence capability not otherwise presently available at our centers. These additional DOD capabilities would enhance rather than duplicate our current network for sorting target information.

Senator D'Amato: Do you know how much of the $300 million appropriated to the Defense Department in the FY 1989 Defense Appropriations Act for anti-drug efforts will be spent on the Customs C3I Center in Florida and the one in California?

Commission von Raab: We have asked the DOD to fund $3.6 million of incremental upgrade enhancements to our centers. We would want DOD to fund the linking of additional FAA centers sensor and flight plan data electronically to our C3I centers. DOD has not yet responded to our request.

PRIORITY AIR PROJECTS

Senator D'Amato: In reviewing with Customs staff the minimum funding necessary to complete the Customs Air Strategy, it appears that 5 Customs priority projects needed to complete the Air Interdiction Strategy are still not funded.

What is the funding status of these 5 projects:

1)	1 - P-3 Airborne Early Warning (AEW) radar plane (#3)	$ 30.5M*
2)	10 - Citation Interceptor/Tracker Planes	$ 65.0M
3)	149 - Personnel (to raise level from 811 to 960)	$ 5.0M
4)	1 - P-3 AEW (#4)	$ 30.5M*
5)	1 - Aerostat (originally scheduled for Bahamas; may be rescheduled for Southwest Border)	$ 23.0M
		$154.0M

* The $30.5 million procurement cost for each P-3 AEW assumes concurrent modification and delivery. If AEW's #3 and #4 are separate procurements, an average increase of $5M per AEW can be expected.

Commissioner von Raab: The recent Drug Czar legislation provided that all plans and strategies made or issued by the National Drug Policy Board would remain in effect until modified or terminated. Consistent with this direction, we will continue to pursue the implementation of the Air Strategy.

Please understand that the five year air strategy document that you refer to was never formally approved by the National Drug Policy Board.

AIR PROGRAM BUDGET SHORTFALL

Senator D'Amato: Can you comment on the impact of this $154 million shortfall in your Air Interdiction Program budget?

Commissioner von Raab: The shortfall will delay the achievement of effective levels of air interdiction coverage along the southern borders of the United States.

It is important to remember that the shortfall is in a strategy not approved by the full National Drug Policy Board. We look forward to the input of the Director of National Drug Control Policy on this matter.

SECURE COMMUNICATIONS

Senator D'Amato: There is a serious unresolved issue that seems to be threatening an effective drug interdiction effort in the Caribbean. DEA and Customs have enough trouble understanding each other. But when DEA and Customs pilots literally cannot talk to each other in a secure mode when they need to, something needs to be done.

DEA wants all American agencies in the Bahamas on the same secure system (KY) for high frequency communications. The Army and Coast Guard both have it. A DEA helicopter is being overhauled and will have a secure communications capability by April. According to DEA, the problem is that Customs pilots won't use their secure "Park Hill" system. Are you aware of this problem? Are you taking steps to correct it?

Commissioner von Raab: Customs Aviation presently has or is installing the following secure radios and security devices; a voice privacy network known as Customs Over The Horizon Enforcement Network, (COTHEN) HF; Vinson, (KY-58) an encryption device for UHF and Voice Privacy (VP110) VHF. The COTHEN has the capability of accepting the Parkhill (KY-75) secure encryption system. The aforementioned devices along with a common law enforcement crypto key material has recently been produced by NSA and should provide a secure interagency communication system.

The Command, Control, Communications and Intelligence Centers (C3I's) will be equipped to communicate on these various systems.

TURF BATTLES IN THE BAHAMAS

Senator D'Amato: There is no doubt the Bahamas is the center for transshipment of cocaine to the United States. Several steps have been taken to combat this situation. Operation Bahamas (a/k/a OPBAT) exists. So does Bandit, Gun Cay and West End. Could you briefly describe these operations and tell the Subcommittee what steps have been taken to integrate these operations to make for more effective drug enforcement?

Commissioner von Raab: The Director, Aviation Operations Center East (AOCE), or his designee routinely meets with management of Federal agencies participating in efforts to improve coordination and resolve any conflicts. He also meets regularly with the U.S. Ambassador to the Bahamas to discuss law enforcement efforts. One problem, which relates to philosophy and command and control of OPBAT forces, has been surfaced through Customs chain of command to The Interdiction Committee (TIC) for resolution, but to date, the problem remains unresolved.

Senator D'Amato: What are you doing to resolve the tension that arises between Operation Bandit, headed by Customs, and Operation Bahamas -or OPBAT- headed by DEA?

Commissioner von Raab: A series of meetings has taken place to define and refine operating procedures. The memorandum of understanding has been adjusted in an effort to improve procedures. We have recommended that the Bahamas apprehension effort be coordinated at the Richmond Heights C3I center.

JURISDICTION OVER CRUISE SHIPS

Senator D'Amato: Which federal agencies have jurisdiction to prevent drug smuggling by means of the cruise ships going through the U.S. Virgin Islands? How much of a potential is there for using these ships?

Commissioner von Raab: The United States Customs Service has jurisdiction for the entry and clearance, and inspection of passenger cruise ships going through the U.S. Virgin Islands (USVI). We believe that a narcotics threat does in fact exist for cruise ships transiting the USVI considering their close proximity to several Caribbean narcotics source countries such as Haiti or Jamaica.

SMUGGLING THREATS

Senator D'Amato: Concerns are being expressed by Customs personnel about a decrease in drug seizures in Florida this year. Drug traffickers are thought to be making increased use of containers, fishing vessels, other large boats and ships, and air drops in the Bahamas, off the coast of Cuba, Haiti and other transit countries. To what extent does the Customs Service's FY 1990 Budget Request address these new drug smuggling threats?

Commissioner von Raab: In terms of container seizures in Florida to date in FY 1989, there have been eight container seizures of cocaine totalling 13,219 pounds. This compares to four container seizures of cocaine (8,929 lbs.) during the same time frame in FY 1988. Hence, the average amount per container seizure has dropped drastically. We believe the smaller average loads being seized this fiscal year is indicative of the deterrent effect we are having in narcotics smuggling via containerized cargo.

In FY 1990, Inspection and Control will use additional positions to augment our container effort (i.e., we will place personnel in those locations identified as being the highest risk for large load interdiction of cocaine). The positions will be used to support our container enforcement efforts in terms of targeting and container examinations. For each position added in the FY 1990 budget, we estimate that 137 additional containers will be examined annually. Our overall strategy is to raise the level of examinations on containerized cargo to a point where we have a true deterrent effect.

Overall, we believe an increase in these positions will enable us to increase the rate of examinations by 50 percent. In other words, we can increase our rate of examination on cocaine source/transit country sea container arrivals from 20 percent to 30 percent, and raise the level of all container examinations from source/transit countries from 4 percent to 6 percent.

CARGO CONTAINERS

Senator D'Amato: How much of a priority is your container program? Could you provide us with the specific container research and enforcement initiatives you could undertake if the FY 1990 budget request is appropriated?

Commissioner von Raab: Within the Office of Inspection and Control, the container program is our top priority. As indicated in our previous response,

additional personnel will be used specifically to support our container efforts on a sustained and systematic basis.

In addition, we are pursuing the utilization of National Guard resources to help support our container initiatives. These resources will further enable us to raise the level of container examinations, and get us closer to our goal to be an effective deterrent to smuggling via containerized cargo.

In regards to container research, the additional funding requested will enable Customs to use alternative means to enhance our container examination capabilities (i.e. x-ray systems, sniffing devices, portable contraband detectors, infrared laser measuring devices, etc.).

TURKS AND CAICOS ISLANDS

Senator D'Amato: A 1950's vintage land-based radar is being operated by crewmen ten years younger than the equipment they are operating. They do not have secure UHF communications, so traffickers can monitor them. There is no analyst at the site to review radar tracking data and try to detect new smuggling patterns. A number of planes have been spotted heading north along longitudes east of the Turks and Caicos Islands. This suggests smuggling activity on the so-called "New York Express".

Would it be possible to assign a Customs Service analyst to this site to analyze emerging drug trafficking patterns, such as a possible increase in smuggling activity on the New York Express?

Commissioner von Raab: Tracks detected at this radar site are reported to C3I Miami by HF point-to-point or telephone communication. The analysis and sorting takes place at Miami where emerging trafficking patterns are identified and reacted to.

AIR PROGRAM ANALYST POSITIONS

Senator D'Amato: If the Customs Service received an additional $500,000 for more analysts to study the information received from its various radars, such as the ground-based and P-3 AEW radars, what kind of projects would it assign to those analysts?

Commissioner von Raab: The assignment of additional analysts would allow more in-depth analysis of radar information. The recently

implemented U.S. Customs Service C3I system provides the capability to record and archive radar tracks seen by the C3I centers. Additional analytic resources would allow for in-depth exploration of this potentially valuable source of tactical and strategic intelligence. Suspect radar tracks received by the C3I centers or seen by airborne detection platforms (i.e. P-3 AEW, E-2C, E-3, etc.) could be incorporated into databases which can be used to provide predictive intelligence on smuggling routes and delivery methods used by Aerial smugglers.

PUERTO RICO

Senator D'Amato: Please explain why there has been a delay in acquiring an aerostat radar balloon for Puerto Rico. Has there been a problem with the Government of the Commonwealth providing the full amount it has promised? Some sources indicate that Puerto Rico has come up with only $1.4 million of the $2 million it promised.

Commissioner von Raab: There is no delay in acquiring an aerostat system for the Commonwealth of Puerto Rico. Site development at Lajas and system production is on schedule.

The two million dollars in question will be provided by the Customs Service to the Government of the Commonwealth of Puerto Rico. These funds will be transferred upon the execution of the Memorandum of Agreement between Customs and Puerto Rico.

Senator D'Amato: Is it true that the radars on Puerto Rico will not be hooked up to the Customs C3I Center in Florida?

Commissioner von Raab: At the present time, Customs is anticipating having the C3I Center at Richmond Heights receive all the data from radars in Puerto Rico. An additional resource that is critically necessary to successful interdictions is data from the DOD Over the Horizon-Back Scatter (OTH-B) network and the Caribbean Radar Network (CBRN) radars, which may be forthcoming through our interface with the DOD Joint Intelligence Center (JIC) in Key West, FL.

Senator D'Amato: How many Customs agents and criminal investigators are devoting most of their time to the air smuggling problem in Puerto Rico?

Commissioner von Raab: There are currently seven Agents and three pilots devoted primarily to air smuggling interdiction and investigations in Puerto Rico.

Senator D'Amato: How many Customs agents and criminal investigators are assigned to all forms of drug investigations (money laundering, smuggling, internal conspiracies, etc.)?

Commissioner von Raab: There are currently seven Customs Agents and Criminal Investigators assigned to all forms of drug investigations in this area.

Senator D'Amato: In addition to combating drug smuggling in Puerto Rico, what other parts of the Caribbean are these agents and criminal investigators responsible for? I have heard from some sources that they are responsible for the entire eastern Caribbean.

Commissioner von Raab: The SAC Caribbean is responsible for drug interdiction for the entire eastern Caribbean in cooperation with foreign governments of neighboring Caribbean island nations.

Senator D'Amato: Puerto Rico is increasingly being used as a transshipment point for narcotics smuggling. Airdrops off the southern and eastern coasts and container shipping through Puerto Rico are favorite smuggling methods. Money laundering is also extensive. If funding for Customs agents and criminal investigators could be increased by $5 million over the President's budget request, how would you allocate those funds?

Commissioner von Raab: The Customs Service is anticipating the placement of an aerostat radar balloon in Puerto Rico. This radar system will greatly enhance our ability to identify and track suspect aircraft and marine vessels. The primary need of the Special Agents and Criminal Investigators assigned in that area will be the ability to coordinate a rapid response to those targets. At this time we envision collocating our enforcement personnel with other local enforcement agencies whereby we can effectively and efficiently merge the talents and resources of these agencies toward the common goal of drug interdiction. A large portion of these additional funds would be dedicated toward creating and housing this new multi-agency group. Additional training, an upgrading of communication equipment, and intercept vessels would also be part of this package.

Senator D'Amato: To what extent is the number of Customs enforcement positions limited by the fact that these positions are funded by the Puerto Rico Commonwealth Trust Fund, rather than the normal appropriations process?

Commissioner von Raab: This matter is currently under legal review by Customs Office of Chief Counsel.

Senator D'Amato: To what extent is the fact that cocaine is selling for approximately $45,000 per kilo in Europe, compared to $10,000 to $15,000 per kilo in Florida, a factor in increasing drug traffickers in transshipping cocaine through the U.S. and Puerto Rico to Europe?

Commissioner von Raab: Relatively little cocaine going to Europe from South America transits Puerto Rico or the United States. San Juan, Puerto Rico, Customs officials report that, during FY 1988, 60 seizures of cocaine en route to Europe were effected in Puerto Rico, amounting to 861 pounds. To date in FY 1989, Puerto Rico has made 19 seizures of Europe-bound cocaine amounting to 250 pounds. There are direct commercial flights linking Europe with dozens of South American cities, which is the desired mode of transportation. Spain is the most common entry point for most of these traffickers.

OPERATION TRANSIT PIGEON

Senator D'Amato: Please provide the Committee with a summary of the accomplishments of, plans for, and budgetary needs of "Operation Transit Pigeon", the new Customs enforcement program targeting the transshipment of drugs from South America through Puerto Rico to Europe.

Commissioner von Raab: Operation Transit Pigeon to date has interdicted a total of 1,058 pounds of cocaine, 32 pounds of heroin, 63 pounds of marijuana, and 1,929 counterfeit bills of both the United States and Trinidad. Sixty-two arrests have resulted from these seizures. Considering the success of the program, present plans call for the continued targeting of flights transitting Puerto Rico for the European community. The Customs Service will maintain close liaison with the Drug Enforcement Administration and European Customs Services to closely monitor developments and exchange intelligence information. Operation Transit Pigeon does not require any additional budgetary funding as it is conducted from existing resources.

ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE

Senator D'Amato: For FY 1990, Customs is now required to transfer 226 full-time equivalent positions and $14,461,000 to the Department of Justice for the Organized Crime Drug Enforcement Task Force (OCDETF).

Please explain how each Customs employee detailed to OCDETF will be compensated? What if a Customs

employee works overtime? Will the Department of Justice pay this employee from the OCDETF funds at the overtime rate established by the U.S. Customs Service? What if OCDETF determined that it did not need the 226 FTE positions and only required 150 positions? Would Customs be able to reabsorb these positions?

Commissioner von Raab: Customs staff will be reimbursed for their efforts by the OCDETF appropriation to the Department of Justice. We have transferred the full cost of this effort, which should be sufficient to cover all overtime costs. Customs would be opposed to an arrangement whereby our agents would be "detailed" to OCDETF. Customs employees participate on a case-by-case basis in investigations adopted by OCDETF Core City Coordinating Groups. A Customs investigator working OCDETF cases may also be assigned to non-OCDETF investigations. Customs employee salaries, including unscheduled and FEPA overtime, have historically been paid from Customs appropriated funds which have been reimbursed on a recurring basis.

We believe individual agencies must retain operational control of agents working OCDETF cases. The unique expertise of each participating agency is the reason OCDETF has been so successful. Detailing agents to an OCDETF office would be a departure from current practice which has allowed agencies to retain their identity and at the same time coordinate, through OCDETF, these complex investigations. The method for reimbursement of employee salaries expended by Customs in support of OCDETF has not been decided. Reimbursement based on FTE contributed to the program will obviously be one of the methods discussed in the OCDETF Executive Review Board.

A reduction from 226 FTE to 150 FTE Customs positions would require us to proportionally reduce support to the program. In order to continue support to the OCDETF program, we would be required to shift personnel from other Customs priorities.

SORTING CAPABILITY

Senator D'Amato: The basic premise of the air module is to provide Customs with the ability to detect, sort, intercept, track and apprehend the air smuggler. Sorting information is an integral part of this process. What is Customs doing to improve its sorting capability particularly as it relates to the shifting nature of drug smuggling threats?

Commissioner von Raab: The most difficult and challenging function of C3I is the sorting of air traffic. As the Southwest Border Aerostats become

operational, more aircraft will be detected. In order to meet this challenge we have initiated several new programs such as the integration of FAA NADIN information into the C3I's and possible integration of DOD intelligence. Also, we have requested the FAA to obtain a letter of agreement from the Mexican Government requiring all aircraft entering the U.S. from Mexico to display a discrete transponder code. In January of this year, a letter of agreement was signed by FAA and Mexico covering these enhancements which will aid the sorting process immensely.

NONRECURRING COSTS FOR EQUIPMENT

Senator D'Amato: In your budget justification, S&E white pages, page 6, $18,549,000 is listed as a nonrecurring cost of equipment which includes a one-time cost for equipment purchased with funds from the FY 1988 Drug Bill. What equipment did Customs purchase with these funds?

Commissioner von Raab: The $8.5 million was allocated in FY 1989 as follows: firearms and training ($2,000,000), TECS terminals and network ($800,000) including modification of machine readable document readers, inspectional communications ($250,000), detector dog teams expansion ($1,500,000), foreign drug intelligence and investigations ($1,250,000), marine BLOC operations ($800,000), and drug interdiction special operations ($1,900,000).

Senator D'Amato: If there are associated operations and maintenance costs for these new purchases of equipment, are they reflected in the Operations and Maintenance request for FY 1990?

Commissioner von Raab: There are no costs associated in the Operations and Maintenance (O&M) appropriation request included with the Salaries and Expenses Drug Bill allocation. However, the FY 1990 O&M appropriation request does include nonrecurring costs of $7 million for the Drug Bill to be used for P-3 AEW spare parts in FY 1989.

NEW ADMINISTRATION INITIATIVES

Senator D'Amato: The new administration proposes the following: The U.S. Customs Service will greatly expand its program of inspection of containerized cargo. This will allow Customs to increase its inspection capacity by about 50 percent. In addition, $3 million is requested for additional Customs money laundering initiatives. In total,

approximately 550 staff will be added to the Customs Service's Drug Interdiction Program, totalling $442 million. How does Customs plan to incorporate these changes? What specific categories will be affected?

Commissioner von Raab: In order to expand our container initiatives, and raise the number of examinations of containers and containerized cargo by 50 percent, Customs is preparing to staff 550 new positions.

The staff that are placed in these positions will be involved in both identifying suspect shipments and performing the actual examinations of merchandise from high-risk countries.

Customs realizes that merely raising the number of inspections of containers from high-risk countries will not by itself result in a successful interdiction effort. In order to be successful, we also must devote some of our resources towards identifying those shipments which present the greatest risk for narcotics smuggling.

For this reason approximately 23 percent of the new 550 positions that will be filled will be staffed with personnel performing tasks that relate to profiling shipments. These personnel will be assigned to Manifest Review Units (MRU) and Operational Analysis Staffs (OAS).

The primary responsibility of OAS is the maintenance and input of ACS Cargo Selectivity and AMS enforcement criteria. OAS have been established at most major ports in the United States. MRU's have been established at most locations throughout the United States. These units conduct intelligence work-ups and target shipments for examination during pre-arrival review of cargo manifests.

The remainder of the positions will be staffed with Canine units and inspectors on Contraband Enforcement Teams. These personnel will be concerned primarily with performing effective and thorough narcotics examinations on suspect shipments.

BUSH ADMINISTRATION BUDGET GUIDANCE

Senator D'Amato: What type of guidance do you have now to prepare a budget justification for the new Administration's budget proposals? Are outlays being frozen at FY 1989 levels?

Commissioner von Raab: We have received the additional $10 million for drug enforcement, which

will be used for cargo examinations ($7 million and 154 FTE) and money laundering ($3 million). Per the Building a Better America document, our drug enforcement programs will not be frozen at FY 1989 levels. The remainder of our programs are subject to the negotiations with the Congress envisioned in the "flexible freeze" concept.

OPERATIONS AND MAINTENANCE FUNDING

Senator D'Amato: The FY 1990 Budget request shows a net decrease of $21,134,000 in Operations and Maintenance funds from FY 1989. Please explain how this will negatively affect Customs Operations and Maintenance particularly as it relates to Customs drug control efforts.

Commissioner von Raab: The net decrease of $21.1 million in the Operations and Maintenance appropriation will not have a negative impact on Customs drug control efforts. Adequate funding is provided in the FY 1990 budget request to maintain the current level of operations. The net decrease is a result of deducting nonrecurring, one-time costs for enhancements from the budget that were provided in FY 1989.

NEW AUTOMATED SYSTEMS BEING TESTED

Senator D'Amato: Your budget justification for Salaries and Expenses, page 9, indicates that strategies for FY 1989 include the testing of new examination/enforcement systems for cargo control. What types of new systems are you testing?

Commissioner von Raab: Currently there are several new systems undergoing various stages of testing. They are: a test of an automated air manifest system, a test of an automated international mail entry writing system, and a port container tracking test.

The Customs Service has been actively developing an automated air manifest system over the past 18 to 21 months. We are currently conducting protocol communications testing with the software vendor, and expect to begin the first actual testing with participating airlines in early May.

The automated international mail entry writing system was conducted at the Customs Secaucus, New Jersey international mail facility. This proof of concept test verified the ability to utilize a mini-computer to automatically convert foreign currencies

to U.S. dollars; calculate and assess any and all duties; provide on-line access to Harmonized Code data; assess the User Fee, and write the mail entry ticket after initial input of the name and address of the recipient. This test resulted in productivity improvements and increased duty and User Fee collections.

In order to better reflect Customs examination efforts of containers from narcotics source countries, we also have developed a spreadsheet, used at 28 major ports of entry to record the numbers and percentage examination of containers from narcotics source countries. This database provides ready availability of container examinations statistics on a monthly basis.

INTERNATIONAL NARCOTICS COOPERATION

Senator D'Amato: In your budget justifications, for Salaries and Expenses, page 11, you state that efforts will focus on more specific targeting of larger seizures. More intensive narcotics examinations of high-risk transactions will occur. One way this will be accomplished is through the use of international cooperation. Please explain what positive international cooperation you receive. Also, which nations, particularly those who are categorized as major narcotics producing or transit countries, do you receive less than adequate cooperation from?

Commissioner von Raab: I have formally gone on record with my concerns regarding narcotics cooperation with several countries. While I would be happy to brief you further, I have already provided the Subcommittee, as promised during our hearing on February 24, 1989, documents which were sent to the State Department summarizing my feelings on this matter.

USE OF NATIONAL GUARD

Senator D'Amato: The FY 1989 Department of Defense Authorization Act requires the National Guard to become more active in drug efforts. Have any additional personnel from the National Guard been detailed to Customs, particularly to add manpower to the inspection of containerized cargo?

Commissioner von Raab: In October 1988, Customs submitted national plans to the National Guard Bureau (412 guardsmen on a sustained effort). The states' plans were submitted through the National Guard at the Pentagon in November and December 1988.

Although $40 million was provided in last year's Defense Appropriations Bill, the approval process is quite lengthy, therefore, implementation has been delayed. Implementation was originally anticipated to begin in January 1989. Due to the lack of timely disbursement of funds, the National Guard will not be used until sometime within the third quarter of FY 1989. With National Guard support, Customs can increase its level of examination of containerized cargo.

CARGO CONTAINERS

Senator D'Amato: How many sniffer dogs does Customs have in its program? How many dogs are needed to enhance containerized inspection? Is there a funding request for FY 1990 for the purchase of more dogs?

Commissioner von Raab: At the present time, we have 102 canine teams assigned to our airport/seaport operations and 74 teams assigned to our land border operations. Our current staffing level permits partial coverage to 29 of the 114 container examination stations. We are discussing internally and with the Treasury Department the possibility of enhancing our efforts in container examinations, through expansion of this program. We are currently planning on training 110 canine enforcement teams for FY 1990; 18 of these teams would be in direct support of containerized cargo examinations. One of the most important limits on expansion is the capacity constraint at our Front Royal, Virginia, canine training center.

SUBCOMMITTEE RECESS

Senator DeConcini. Thank you. The subcommittee will recess until Friday, March 3.

[Whereupon, at 11:30 a.m., Friday, February 24, the subcommittee was recessed, to reconvene at 9:30 a.m., Friday, March 3.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1990

WEDNESDAY, MARCH 1, 1989

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10 a.m., in room SD-116, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present: Senators DeConcini and Domenici.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

STATEMENT OF MARSHALL BREGER, CHAIRMAN

ACCOMPANIED BY:

ERNEST GELLHORN, REGIONAL MANAGING PARTNER OF JONES, DAY, REAVIS & POGUE

ALAN MORRISON, DIRECTOR, PUBLIC CITIZEN LITIGATION GROUP

INTRODUCTION OF WITNESSES

Senator DECONCINI. The Appropriations Subcommittee on Treasury, Postal Service, and General Government will come to order. This morning the subcommittee will hear and receive testimony from witnesses representing four Federal agencies on their fiscal year 1990 budget request. Those agencies are: The Administrative Conference of the United States, the U.S. Tax Court, the Advisory Commission on Intergovernmental Relations, and the Advisory Committee on Federal Pay.

Because of limited time constraints, we will ask all witnesses to briefly summarize their statements. We will put their full statements in the record and leave the record open if they would like to supplement their views. We also have the written statement of Senator D'Amato, which will be part of the record without objection.

[The statement follows:]

STATEMENT OF SENATOR D'AMATO

Mr. Chairman, I would like to extend a warm welcome to Administrative Conference Chairman Marshall J. Breger and greetings to Messrs. Gellhorn and Morrison. This is a distinguished panel whose testimony is valued.

The administrative conference goes about an important task in quiet manner. Devising means to enhance the efficiency and effectiveness of agency government is a most valuable contribution to our policy.

Among the many tangible benefits provided by the conference have been its various symposia on numerous topics of interest; its publications, which serve as a ready reference on agency practice for all who deal with the Federal Government; and its ongoing consulting services to all branches of government. Of particular note, is the development of a "code of conduct" for administration transition personnel. So impressive was the work, that the administration immediately adopted the "code" which facilitated a smooth transition.

Prior appropriations, in my opinion, have been monies well spent. I note the conference's FY 1990 budget request is $1.865 million—without question a realistic request, and one that will allow the conference to continue its important work.

I look forward to today's testimony respecting the details of this year's budget request.

TAX COURT

Mr. Chairman, let me welcome Chief Judge Arthur Nims and thank him for his forthcoming testimony.

The court's FY 1990 budget request of $28.120 million, a decrease of $1.225 million from last year, represents a proper funding level which will allow the continued expeditious handling of an ample docket.

The tax court's role of assuring due process in the administration of our tax laws is vital to maintaining the confidence of our nation's citizenry in the fundamental fairness in the levying and collecting of revenue.

I extend my warm regards to the chief judge and await his remarks.

THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Mr. Chairman, I appreciate Chairman Robert B. Hawkins taking the time to testify today and welcome him for that purpose.

The Advisory Commission plays a unique role in our federal system of separated powers which we hold so dear. Federalism and the separation of powers are in many ways a bulwark against tyranny. Our government is as dependent on cooperation between the states and the branches as it is on the structure of separation. A nation cannot function without cooperation, nor can liberty flourish without checks and balances. The commission's work contributes to that end.

The commission's FY 1990 budget request $1.3 million is reflective of its efforts to reduce costs and enhance outside revenue. The commission's success on this front is apparent.

Your remarks expanding on this year's budget request are appreciated.

ADVISORY COMMITTEE ON FEDERAL PAY

Mr. Chairman, I welcome to today's hearing Chairman Martin L. Duggan, and appreciate his testimony.

The committee's work studying the Federal pay scale, particularly as it relates to the private sector, helps ensure that government service pay remains reasonably competitive. Over 1.4 million employees look to the committee to guard their pay from the ravages of inflation, as well as to maintain basic equity.

The FY 1990 budget of $205,000 the committee requests represents a freeze of last year's budget and therefore contributes to the fiscal restraint in which we all must share.

I thank the chairman for his attendance today and appreciate his remarks.

STATEMENT OF MARSHALL BREGER

Senator DECONCINI. We will begin this morning with the Administrative Conference of the United States. Mr. Marshall Breger, chairman of the Conference, and Dean Ernest Gellhorn, Conference member, will be testifying on behalf of the Conference. Please proceed, Mr. Breger.

Mr. BREGER. Thank you very much, Mr. Chairman. I should note I am also accompanied by Alan Morrison, a public member of the Conference and director of the Public Citizen Litigation Group.

Senator DECONCINI. Yes, Mr. Morrison. We are very glad to have you here.

NEED FOR THE ADMINISTRATIVE CONFERENCE

Mr. BREGER. Because our testimony in chief has been placed in the record, I will limit myself to a few comments to try to explain more clearly what the Administrative Conference is and what it does. I suppose the fundamental question is, Why such an entity should exist? Why should we have an Administrative Conference?

I think the answer is clear: We need an Administrative Conference because we have an administrative state. Much of our lives today is governed by bureaucracy, by administrative law, by administrative procedure, and in many respects, this administrative state can be dauntingly Kafkaesque to the average citizen. Even to the sophisticated individual, it is often bewildering. The administrative state is an entity that has grown like topsy, and continues to grow.

Every western industrialized country, Mr. Chairman, has created an analog of the Administrative Conference, an agency of the Government, designed to fine-tune the administrative process, seek out efficiency, and ensure fairness in the administrative state.

When Congress passed the Administrative Procedure Act in 1946, it was supposed to be the be-all and end-all of administrative law—the bible as it were. But between 1946 and 1968 when the Conference was created, two Presidents and the Judicial Conference of the United States each found it necessary to create temporary conferences for this very purpose. They recognized that in trying to implement the Administrative Procedure Act, in trying to face the mushrooming growth of the administrative state, they needed an entity that would give objective, nonpartisan, relatively autonomous, and practical advice on how to improve and fine-tune this growing behemoth.

Indeed, I put it to you that if the Administrative Conference did not exist, Congress would shortly move to invent it, and I suspect in inventing it might do so without the history that aids our work today, without the institutional memory, and without the participation of the volunteers such as those next to me who are an important part of the Conference process. I suspect it might also carry a much bigger price tag than does the agency over which I preside.

IMPROVING EFFICIENCY AND FAIRNESS

Let me give you some examples of how the Conference seeks to improve efficiency and ensure fairness in the administrative process. As regards efficiency, we have had two roles. One, an effort to prevent agencies from reinventing the wheel. As you may know, we have been very involved in the passage of the Equal Access to Justice Act—both the original act and its amendments. Congress mandated us to prepare model rules to help implement that act. We did so. Over 33 agencies have adopted these rules in large part, most recently the Federal Mine Safety and Health Review Commission. If each of these agencies had to assign a lawyer for 6 weeks to develop their own rules, the cost to the Government would have been multiplied over 30 times. In this instance and in many other instances, the Conference provides a coordination role which prevents agencies from reinventing the wheel.

But even more important, we offer proposals to improve efficiency. Consider the problem of whistle-blower protection for private sector employees. Congress passed over a dozen statutes protecting whistle-blowers in various private industries. In many of those statutes, there are different rules of procedure. Hypothetically, if you are in the nuclear industry, you have 30 days to file a complaint. If you are in the trucking industry, you get 180 days. If you are in the chemical industry, you might have 90 days. Some of these rules allow for punitive damages; others do not. The rules vary significantly in their coverage, offering protection for different kinds of whistle-blowing activity. And indeed, depending on the industry, there are at least five different forums in which an affected employee might be required to bring whistle-blower complaints.

Now, the Conference studied this intensively, and we concluded that there was no analytic or rational reason for these differences in treatment in the various industries. The balkanization of the whistle-blower protection process was a pure accident of history. We made proposals for unified standards which we think are fairer to all the individuals involved, clearer for those being protected, and also more efficient for the Government. We make no comment, and I underscore this, on the substantive decisions, namely, whether or not there should be whistle-blower protection or what that coverage should be. That is the job of Congress. We do, however, fulfill our mission by making comment on situations where by accident, if not design, the procedural process is a mishmash. That was the case in the whistle-blower protection area. I am pleased to say that our procedural proposals were considered last term in bills introduced both in the House and Senate, and I understand are being taken up again this year in similar legislation put forward by Senator Grassley and Senator Metzenbaum.

As regards fairness, we have put extraordinary energy in the last 20 years into advancing the proposition that there must be public participation and openness in administrative rulemaking, even where the Administrative Procedure Act does not so require. And one by one, agencies have fallen in line. Most recently, we criticized HHS over their national coverage determination of who gets covered by Medicare and who does not for different kinds of medical procedures. We felt that these decisions were far too important to be made by experts in a closed room without public involvement. After an extensive study, which went through the Conference process, and after discussion with HHS recently this year, HHS issued draft rules which encompassed most of our proposals.

Presently, we are studying the problem of peer review for physicians in the Medicare Program. In this instance, a charge against a physician, either of injury to the patient or violation of the Medicare laws, can currently take as much as 3 years to resolve, entailing significant costs as well as potential safety risks to those most in need. We are trying to streamline that process so that there will still be fairness to the physician, but it will not take such a long time for a final determination to be made.

PROGRAMMATIC CAPACITY SHRINKS

Mr. Chairman, we are a small agency. The vast bulk of our resources go for fixed costs: Personnel, rent, utilities. As you know, we have held the line over the last 3 years in our budget request. At the same time, we have absorbed pay increases over the last 2 years, along with a variety of mandated expenses associated with Government requirements applicable to all agencies, both large and small.

I have to underscore this because when you see the same figure of $1,865,000 over a 3-year period, you might think that we are providing a constant level of service. But because Congress and the administration have asked small agencies to fulfill various audit requirements, automated accounting requirements, charges by the Federal Register to publish our proposals and recommendations, and other such mandatory expenses, and because these fees continually increase, in fact, our programmatic capacity continually shrinks.

Mr. Chairman, there is simply no fluff left. I urge the subcommittee to provide adequate funds to support the Conference's work. Thank you very much.

PREPARED STATEMENT

Senator DECONCINI. Thank you, Mr. Breger. Your complete statement will be made part of the record.

[The statement follows:]

STATEMENT OF MARSHALL J. BREGER

INTRODUCTION

My name is Marshall J. Breger and I serve as Chairman of the Administrative Conference of the United States. I am pleased to discuss with you the mission of the Administrative Conference and our budget request for $1,865,000 to undertake that mission in fiscal year 1990.

Accompanying me today are Ernest Gellhorn and Alan Morrison. Mr. Gellhorn is a public member of the Conference and Chairman of our Committee on Rulemaking. He is Regional Managing Partner of Jones, Day, Reavis & Pogue in Washington, D.C. and former Dean at the law schools at Case Western Reserve University, the University of Washington, and Arizona State University. Mr. Morrison is also a public member of the Conference, having been originally appointed by former Chairman Robertson in 1980, and thereafter reappointed by both former Chairman Smith and myself. He serves as a member of the Conference's Committee on Governmental Processes and its Special Committee on Ethics in Government. He is Director of the Public Citizen Litigation Group.

BACKGROUND

It is helpful, Mr. Chairman, to evaluate the role of the Conference in some context. The idea of having an institution to recommend improvements in agency procedures goes back forty years and has received support from all three branches of government on a bipartisan basis. Before there was a permanent Administrative Conference, the courts and two Presidents appointed temporary organizations to do the same job. The Judicial Conference of the United States in 1949 designated a committee of its judges to examine some of the more pressing shortcomings of the administrative process—shortcomings that were creating difficulties when they showed up in court on judicial review of agency action. And a special advisory committee set up by the Chief Justice shortly thereafter recommended establishment of an Administrative Conference. A Republican President, Dwight Eisenhower, established a temporary Conference on an experimental basis in 1953. The success of the experiment led his Democratic successor, President John Kennedy, to establish a

second temporary Conference in 1961. The widespread endorsement of the Conference idea, including the recommendations of both temporary conferences that a permanent institution be established, led Congress to create the Administrative Conference in 1964 as a permanent, independent agency.

What is true for the United States has been true for almost the entire western industrialized world, where the political leadership has recognized the need for objective and relatively autonomous *practical* advice on how to navigate the "administrative state." Most countries with significant administrative bureaucracies have some permanent body which monitors administrative procedure and recommends improvements. Great Britain has the Council of Tribunals, charged with the responsibility for overseeing a wide variety of administrative tribunals and consulting with them on the establishment of procedural rules. In Australia, the Administrative Review Council focuses on questions concerning review of administrative action by courts and other panels, making recommendations on the adequacy of procedures and the categories of administrative decisions that should be reviewed. The Canadian Law Reform Commission considers the procedures of administrative tribunals, including government departments and agencies, and the Report and Studies Commission of the French Conseil d'Etat prepares confidential annual reports identifying pressing problems of administrative procedure and recommending legislative changes.

STATUTORY MISSION

The mandate of the Administrative Conference today, as it was when it was established, is to study Federal agency organization, procedure and management, including, specifically, the efficiency and fairness of the processes by which Federal agencies administer regulatory, benefit and other government programs. Put simply, we try to make the administrative state work better—better for citizens and, through our efficiency concerns, better for the bureaucrats.

We advise the President, the Congress, and Federal departments and agencies on ways to improve administrative procedures, including adjudication, rulemaking, and less formal means of agency activity. Among other things, we direct studies of the structure and organization of government agencies and their administrative processes, and work with agencies, informally, to improve their administrative procedures. Because both Congress and the courts recognize that failings in the administrative process significantly affect the workload of the courts, we examine, as well, the relationship between agency action and judicial review, and make recommendations to the courts through the Judicial Conference.

The Conference also collects and synthesizes materials in order to save agencies from expending resources independently to accomplish similar tasks and to provide a mechanism for ensuring consistency from agency to agency in procedural matters affecting the public. The Conference serves as a clearinghouse of information, fielding requests from members of Congress and their staffs, agency officials, and members of the public on a wide range of matters associated with the administrative process.

Conference initiatives touch the lives of millions of Americans. In the year since I last testified before this subcommittee, we have begun to examine the procedural mechanisms through which the Medicare program protects its beneficiaries from unnecessary, poor quality or inappropriate medical care. In furtherance of a 1987 Conference recommendation, we helped Congressional staff draft the *procedural portions* of bills to protect private sector health and safety whistleblowers, both generally and in the aviation industry specifically. We are currently looking into the procedures by which the Immigration and Naturalization Service has administered the legalization program to determine if the process by which aliens who have resided lawfully in the United States may apply for temporary resident alien status has operated fairly.

At the same time, we have made significant recommendations bearing on fundamental aspects of the governmental process. We persuaded the new Administration to adopt a first-of-its-kind Code of Conduct for transition workers. We scrutinized the manner by which the Office of Management and Budget reviews regulations proposed by departments and agencies and encouraged OMB to complete its oversight in a timely fashion and with maximum feasible disclosure to the public. I am proud that the Conference was able to enlist the total cooperation of the former Director of OMB and the Administrator of OMB's Office of Information and Regulatory Affairs in the effort. We have worked closely with members of Congress to develop legislation to replace the costly and litigious rulemaking and adjudicatory

processes, where appropriate, with faster, less costly consensual mechanisms. A brief description of selected ACUS initiatives in 1988 is attached as Appendix A.

If I may be blunt, Mr. Chairman, when compared with other governmental programs, we have done all this—and much more—on a shoestring.

As you may know, the Conference was modeled on the Judicial Conference of the United States, whose members include representatives of the Supreme Court, the Federal circuit and district courts, and other judicial officers, who meet, from time to time, in a fashion akin to that of the Conference. The research arm of the Judicial Conference is maintained in the Federal Judicial Center, an organization charged with the responsibility for furthering the development and adoption of improved judicial administration. The Federal Judicial Center performs essentially those functions for the judicial branch of government that the Office of the Chairman of the Administrative Conference performs for the executive branch. Although the workload of the departments and agencies far exceeds that of the Federal courts, the Federal Judicial Center has a permanent staff and an annual budget more than five times that of the Administrative Conference.

CONFERENCE MEMBERSHIP

The Conference has an authorized membership of 101 members, who include the government's top legal officers, leading academic authorities in the field of administrative law, and experts from private life who are knowledgeable about governmental processes. Except for the Chairman, all of our members serve without compensation. Because of the prestige of serving on the Administrative Conference, the government receives, free of charge (except for travel expenses for out-of-town members) the services of both its government and public participants—individuals with an impressive array of accomplishments and experiences who donate hundreds of hours of service each year.

Our members share two things in common—an expertise in problems of administrative procedure and a willingness to contribute that expertise to make the governmental process more open, fair and efficient. A list of Conference members is attached as Appendix B.

Among the 101 members is a 10 member Presidentially-appointed Council, consisting of five Federal officials and five non-government members. Because of the recent transition to a new Administration, we currently have three vacancies among the government members. Current members of the Council are Curtis H. Barnette, Senior Vice President and General Counsel of Bethlehem Steel Corporation; Philip D. Brady, Deputy Assistant to the President and Director of Cabinet Affairs; Walter Gellhorn, Professor Emeritus at the Columbia University School of Law; Trudi M. Morrison, President of The Morrimount Corporation; Robert Ross, Executive Assistant to the Attorney General; R. Carter Sanders, Jr., Sanders & Associates; and Edward L. Weidenfeld, Esquire, Washington, D.C.

The Chairman, who is an advice-and-consent appointee with a term of 5 years, serves as the Conference's chief executive. He superintends a small, permanent staff.

A majority of our 101 members are government officials. They are selected by their individual agencies and departments and are, typically, general counsels, commissioners, or assistant secretaries. But the Conference has among its government members a cadre of career civil servants who lend important continuity to our activities. Among other career government officials are three who hold so-called "floating" government seats which are used to provide the Conference with perspectives that might otherwise go unrepresented. Those floating seats are filled by an administrative law judge, a member of a board of contract appeals, and an inspector general.

Public members are appointed by the Chairman with the approval of the Council. They serve two-year terms and include some of the leading authorities in the field of administrative law and government operations, consumer or public interest representatives, and other members of the practicing bar. We currently have 36 public members (other than public members of the Council). They represent all points on the political, philosophical and geographic spectra. Among our public members are Thomas M. Susman, former General Counsel of the Senate Judiciary Committee and legislative aide to Senator Kennedy, now in private practice in Washington, D.C.; Michael Wallace, former Counsel, Office of the House Republican Whip, now in private law practice in Jackson, Mississippi; Lloyd Cutler and Fred Fielding, former White House Counsels to Presidents Carter and Reagan, respectively; Sally Katzen, a partner in the Washington law firm of Wilmer, Cutler & Pickering, and currently Chair of the Section of Administrative Law and Regulatory Practice of the

American Bar Association; Alan Morrison, Director of the Public Citizen Litigation Group; Carolyn Kuhl, former Deputy Solicitor General, Department of Justice, now in private law practice in Los Angeles; Michael Hawkins, former United States Attorney for the District of Arizona, now in private law practice in Phoenix; Elliot Bredhoff, one of the country's most distinguished labor lawyers; Jonathan Weiss, Director of Legal Services for the Elderly in New York City; Phillip Truluck of the Heritage Foundation; Ernest Gellhorn, Regional Managing Partner, Jones, Day, Reavis and Pogue, and formerly the Dean at three of the nation's leading law schools; Dr. David Pittle, Technical Director of Consumers Union; and Paul Verkuil, President of the College of William and Mary in Williamsburg, Virginia, and one of this country's foremost experts in administrative law.

The Conference also maintains liaison relationships with the Federal judiciary, which is represented by Circuit Judges Stephen G. Breyer of the United States Court of Appeals for the First Circuit and Kenneth W. Starr of the United States Court of Appeals for the District of Columbia Circuit (Solicitor-General Designate). We have liaison arrangements as well with groups interested in the administrative process, such as the Section of Administrative Law and Regulatory Practice and the National Conference of Administrative Law Judges, Judicial Administration Division, of the American Bar Association, and the Federal Bar Association. The American Bar Association recently endorsed the reauthorization of the Conference with funds sufficient to permit it to carry out its mission.[1]

I cannot emphasize enough, Mr. Chairman, how much the efforts of these volunteers assist our work. It is not merely the hundreds of hours of volunteer time and effort we are given. Put simply, it is the opportunity for the Conference generally, and our consultants specifically, to learn from some of the most seasoned practitioners of public law and test Conference recommendations in the crucible of their accumulated experience.

THE CONFERENCE PROCESS

The Conference's formal advice is given in the form of recommendations that are debated and adopted by vote of its 101 members. It develops its recommendations through a unique deliberative process that melds theoretical and practical considerations. The Chairman, in consultation with the professional staff, initially decides to pursue a particular topic on the basis of suggestions from Conference members, agency officials, members of the academic community, members of Congress or Congressional committees, or others. The topics are typically narrow and precise—as can be seen from the list of recommendations set out in the Code of Federal Regulations, and attached as Appendix F.

When a topic is defined, the process begins by selecting a consultant—usually a law professor who is already a noted national expert in that particular field. The consultant reviews available literature and case law, interviews agency officials, and submits a comprehensive report on the topic. The Conference's Research Director and one or more of its staff attorneys work with the consultant to ensure that all pertinent issues are addressed and that the ultimate product is of high quality.

Importantly, although the scope of the report is worked out in advance, and monitored throughout the project, the consultant retains the latitude to make his or her own findings and conclusions. As a result, consultants at times cover issues or develop ideas which will not be translated into recommendations by the Conference's committees or adopted by the Conference itself. Although the Conference staff tries to ensure that the report is a practical document, not merely an "ivory tower" effort, we do not censor our consultants' work. Indeed, we attract national experts precisely by according them freedom to reach their own conclusions and considerable latitude in the product they produce—with the understanding that the committees and the Conference are not bound by a consultant's report.

Some observers might believe that the submission of a consultant's report is the end product of the Conference's work and that such a report is little different from a law review article and other academic study. Nothing could be further from the truth. When a consultant's draft report is submitted, it is reviewed by the members of one of our committees. (All Conference members serve on one or more of the committees.) Occasionally, the committee review process reveals inadequacies in the report as originally tendered. And the consultant is asked to undertake further work. If the committee believes, for example, that the report lacks a sufficiently practical focus, the consultant, working cooperatively with committee members or the staff, may agree to modify his or her draft report. Once the report is complete

---

[1] See Appendix G.

and satisfactory, the committee develops a set of recommendations through the tug and tussle of debate and compromise. Committee deliberations—in which we seek to involve representatives of affected parties even if they are not members of the Conference—are perhaps the most unique and special aspect of Conference activity. They produce practical solutions to difficult, and often seemingly intractable, problems.

Recommendations that emerge from committee review are transmitted to the Council. If the Council is satisfied that the recommendations and underlying report are satisfactory, it places the recommendations on the agenda of the next semi-annual general meeting, or Plenary Session. At a Plenary Session, the proposed recommendations are, once again, thoroughly debated. Often, recommendations are amended. On occasion, they are referred back to committee for further work, or simply voted down. This extensive process of deliberation and review—by the Conference's professional staff, the committee, the Council, and the full membership assembled in Plenary Session—makes certain that recommendations which emerge reflect the maximum possible consensus among knowledgeable persons of many perspectives. Recommendations resulting from this unique process are much more likely to achieve implementation than single-source proposals.

Recommendations which survive the Plenary process are published in the Federal Register and transmitted by the Chairman to the Congress, the President, the judiciary or the relevant agencies. By arrangement with the Office of the Federal Register, they are codified in the Code of Federal Regulations.

Implementing Conference recommendations is an important part of the activities of the staff of the Office of the Chairman. The Office maintains a separate file on each past recommendation, which includes information received from all agencies concerned with that recommendation. Because the Conference has advisory powers only, the staff has to monitor Congressional and agency activities to discover if one or more agencies, or a Congressional committee, is interested in a problem that relates to a past recommendation. The staff, or the Chairman personally, will then ensure that the interested body is aware of the Conference Recommendation. We make our views known informally, through testimony, or by commenting on proposed agency regulations, as appropriate. A copy of our implementation digest is included as Appendix D.

CONFERENCE AREAS OF ACTIVITY

A key debate at the time of the Conference's creation was over the scope of its operations. There were some who wanted us to focus entirely on issues arising under the Administrative Procedure Act. There were those who espoused, instead, a more expansive view of our responsibilities. The latter group prevailed. As a result, the Conference operates under a Congressional charter that extends our mission to the full reach of procedural, management and organizational issues affecting government.[2]

Since the Conference's inception, it has combined an interest in issues arising directly under the Administrative Procedure Act with those bearing on the governmental process more generally. Some of our actions focus on the mundane yet important day-to-day workings of the administrative process. Our first proposal in 1968, for example, was to upgrade the physical facilities for the conduct of Federal administrative hearings around the country. In furtherance of that recommendation, the Conference published a directory of acceptable hearing facilities. That guide, most recently updated in 1984 with some small financial contributions from user agencies, is still in use. We are currently revising and updating our 1983 Guide to Federal Agency Rulemaking. We continue to believe that an important part of our mission is the compilation and distribution of information helpful to administrative agencies in their day-to-day operations.

Over the years, we have also examined a range of topical and agency-specific problems. Although others may have their own favorite choice, I believe the Conference's 1970 recommendation to the Securities and Exchange Commission that it make public its so-called "No-Action" letters first placed the Conference "on the

---

[2] The Administrative Conference Act directs the Conference to study administrative procedure, which is defined as "procedure used in carrying out an administrative program and is to be *broadly construed* to include *any* aspect of agency organization, procedure, or management which may affect the equitable consideration of public and private interests, the fairness of agency decisions, the speed of agency action, and the relationship of operating methods to later judicial review, but does not include the scope of agency responsibility as established by law or matters of substantive policy committed by law to agency discretion." 5 U.S.C. 572(3) (emphasis added).

map," so to speak, as an effective advocate for practical administrative procedure reform. The no-action process is the one through which the SEC's staff informally advises companies whether a contemplated sales transaction can be consummated without registration. Rather than have applicants file an unnecessary registration statement, or have them issue the stock without registration under the peril of subsequent SEC enforcement, the SEC developed an informal clearance process.The only problem was that, apart from the applicant and the SEC staff, no one had access to these no-action letters. So the Conference recommended that, to the extent feasible, the SEC publicly articulate the standards which the staff applied in the no-action process, and make public a selected group of the more important past no-action letters. The SEC adopted the recommendation and the no-action process remains, to this day, something of a model of administrative pragmatism.

In the 1970s, when questions of public participation and open government were preeminent, the Conference urged all agencies to publish standards that would guide their determinations in various types of action, either through rules or policy statements. Our 1977 recommendation on *ex parte* communications in rulemaking proceedings was expressly cited by the D.C. Circuit in its landmark discussion of communications between the President or his staff and other executive branch rulemakers. With the advent of banking deregulation in the 1980s, the Conference established a special committee on financial services and began a review of procedural issues affecting the regulation of financial services. That committee has taken an active role addressing issues involving procedural aspects of bank and savings and loan failures. Last year I appointed another special committee to look at the dispute settlement procedures under the U.S.-Canada Free Trade Agreement.

Over the years we have not forgotten our obligations as the body most responsible for bridging the gap between administrative law theory and practice. In this role, we have always tackled fundamental issues of administrative law policy. Early in our history, the Conference recommended elimination from the APA of the exemption it contains for rulemaking actions associated with the government's so-called "proprietary" activities, i.e., the management of public property, the conferral of grants and benefits, and government loans and contracts. More than a dozen agencies—including two of the principal benefits agencies, the Veterans' Administration and the Department of Health and Human Services—promptly and voluntarily complied with the Conference's recommendation. Over two decades, Congress has slowly chipped away at that exemption as well. Congress now requires the use of notice and comment rulemaking for Medicare regulations.[3] Last year, Congress, by statute, mandated the use of notice and comment rulemaking procedures for regulations promulgated by the Veterans' Administration.[4] In reviewing the legislation, the House Veterans' Affairs Committee pointed approvingly to the Conference's work in this area.

THE STRENGTHS OF THE CONFERENCE

The Conference has no power to compel action. Its core activities are the study of the efficiency, adequacy and fairness of the administrative process, the development of recommendations for improvement, and the implementation of those recommendations. It is a unique governmental institution—serving as an advocate for change, a vehicle for basic research in administrative law issues, an instrument of coordination and efficiency, and a testing ground for new or novel ideas.

1. *The Conference as a Practical Advocate for Change*

Agencies and other government entities, "think tanks" and law school professors, all undertake important research into administrative process issues. Some studies are published in learned journals. Regrettably, many fine reports simply find their way to a back shelf. Because of its public and private membership and permanent institutional structure, the Conference can uncover practical problems, research solutions and propose change, meld a consensus for that change, and—importantly—campaign for reform.

The nearly decade-long effort to obtain passage of "race to the courthouse" legislation is an example of the Conference's persistence in working for practical reform. The venue provisions of many regulatory statutes offer aggrieved parties a choice of judicial forum in which to seek review of agency decisions. The general venue provisions historically provided that the court in which the first judicial review petition was filed obtained jurisdiction over all appeals if multiple petitions for appellate

---

[3] 42 U.S.C.A. 1395hh (West Supp. 1988).
[4] Pub. L. 100-687, 100th Cong., 2d Sess § 102(a) (1988).

review of the same agency decision were filed in two or more circuit courts. So "races to the courthouse," replete with walkie-talkies, open long-distance telephone lines, and, at times, multiple filings by the same party, became a frequent feature of appellate governmental litigation. The system was unfair. As one court noted, there was a potential for determining venue by "splitting minutes on the digital watches worn by parties and timed by calls to the Naval Observatory" or using "split-second electronic timing devices and laser transmissions or some other esoteric procedures which distort the statutory purpose." [5]

It was expensive. A Conference consultant estimated that a typical race cost $65,000–$100,000. Parties without the financial wherewithal to conduct sophisticated races were at a disadvantage even before they got into court. Yet no single Federal agency or private litigant was affected more than occasionally. So while the aggregate costs were substantial, no one had an incentive to champion change.

The Conference took up the subject, engaged a consultant to study it, and produced a thoroughgoing documentation of the problem and a simple proposal for change—establish a scheme of random selection where petitions for review of the same agency decision are timely filed in more than one court.

The Conference staff participated in drafting necessary legislation. And, with the help of the American Bar Association, it pressed the case in Congress over several years until legislation to correct the problem was enacted in the 100th Congress.[6]

2. *The Conference as Basic Researcher*

Agencies are mission oriented. They rarely undertake "basic research" into procedural issues. But the Conference can—and does—undertake such research into areas that are totally new or experimental and would not be initiated by individual agencies. Its effort in the area of negotiated rulemaking is a useful illustration.

Informal rulemaking is now the dominant form of agency decisionmaking in which the public participates. Increasingly, individuals representing environmental, consumer, esthetic, humane and like interests have joined those with a traditional economic stake in agency action as active participants in the rulemaking process. And when they lose, they go to court. Over 80 percent of significant rules issued by the Environmental Protection Agency in recent years, for example, have ended up in court.

Everyone agreed that, to the extent feasible, it was desirable to develop less costly, less time-consuming and less adversarial methods of decisionmaking—methods that will also produce results that are more acceptable to the public. The Conference commissioned an examination of whether regulations could be negotiated among affected interests consistently with statutory objectives, rather than simply imposed by agencies. The Conference's consultant produced a seminal study in 1982.[7]

Since the Conference's 1982 recommendations on the subject, a number of agencies have used the technique successfully. The Conference has conducted a government-wide symposium on alternative means of dispute resolution, which included extensive discussion of negotiated rulemaking, and we initiated a follow-up study of four rulemaking proceedings conducted through negotiation to see what lessons could be learned from actual experience.

Our efforts were so successful that twice last year Congress required the use of negotiated rulemaking—by the Department of Education and the Nuclear Regulatory Commission.[8] Both statutes explicitly instructed the agencies to follow the guidance contained in the Conference's 1982 recommendations. We were particularly gratified that, in the latter case, Congress had sufficient confidence in the Conference that it expressly directed the NRC to use a convenor chosen from a list which we were instructed to submit to the NRC within 30 days of enactment of the legislation.

3. *Instrument for Coordination and Efficiency*

During my short time in government, I have seen instances in which one Federal agency, unaware of existing scholarship on a particular subject, sets out to "reinvent the wheel." From time to time, Congress, perhaps because of the balkanization of its committee responsibilities, establishes separate or different procedures when a single set of rules would be far more efficient. I have learned that it is not enough to develop or create a useful administrative law mechanism. You must be vigilant

---

[5] Mobil Oil Exploration Co. v. FERC, 814 F.2d 998, 1000 (5th Cir. 1987).
[6] Public Law 100–236 (1988).
[7] Harter, Negotiating Regulations: A Cure for Malaise, 71 Geo. L. J. 1 (1982).
[8] Public Law 100–297 (1988) and Public Law 100–408 (1988).

in alerting the bureaucracy and the Congress to the work that has already been done.

To the extent we can do so, we try to coordinate activities in the realm of administrative process to protect against needless dissipation or duplication of effort or resources. We believe that our work can save the government significant money and that only an independent Federal establishment like the Conference has the incentive to undertake the necessary advisory, training and clearinghouse activities.

Our current effort to consolidate whistleblower protection activity under a single set of ground rules is one example. It is not our role to promote or discourage whistleblowing or the protection of whistleblowers. The determination of whether, or to what extent, protection of private sector whistleblowers should be an element of more comprehensive regulation of public health and safety is, in the final analysis, a judgment for Congress. Our role involves process. In 1987, the Conference adopted a recommendation urging *uniform* treatment of private sector health and safety whistleblowers. In other words, if Congress decides (as it has) that certain categories of workers should receive Federal protection, or as Congress adds new categories, we recommended that it centralize whistleblower protection in a single agency under uniform procedures, in the interest of efficiency and harmony of results. In furtherance of those procedural objectives, we worked closely with Congressional staff and testified in connection with the procedural provisions of S. 2095, the Uniform Whistleblower Protection Act, and H.R. 5073, a bill to extend whistleblower protection to workers in the aviation industry. The latter bill passed the House last year.

Congress has recognized this key aspect of the Conference's work. Indeed, it has twice assigned us the task of coordinating agency regulations implementing new statutes. In 1976 Congress enacted the Government in the Sunshine Act requiring multi-member agencies to conduct their meetings in public. More than forty agencies were required to consult with the Conference before adopting their own Sunshine Act regulations. In furtherance of its responsibilities, the Conference staff met with representatives of affected agencies, provided comments on proposed regulations, and served as a clearinghouse for Sunshine Act information. Thereafter, drawing upon its clearinghouse experience, the Conference issued an interpretive guide to the Act. That guide has been cited with approval by the courts, including the Supreme Court of the United States.[9]

In 1981 Congress directed Federal agencies to consult with the Conference before the adopted procedural rules to implement the Equal Access to Justice Act (EAJA). That statute provides that certain individuals and small businesses who prevail in administrative adjudications or court proceedings against the government are entitled to an award of attorney's fees and expenses unless the government can demonstrate that its position was substantially justified. With the cooperation of an interagency task force, the Conference staff developed a set of model rules. Almost all agencies incorporated large portions of those model rules into their own regulations and some followed them almost completely. We undertook a similar mission following enactment of the 1985 amendments to EAJA. On at least two occasions, the courts, although disagreeing with each other over the construction of the EAJA, nonetheless pointed to the Conference's efforts when resolving the issues before them.[10]

Conference efforts implementing both the Sunshine Act and Equal Access to Justice Act contributed to uniformity and saved affected agencies countless hours that would otherwise have been needed to implement the new legislation independently. Attached, as an illustration, is the recent reliance on the Conference's model EAJA rules by the Federal Mine Safety and Health Review Commission.[11]

4. *The Conference as Testing Ground*

Over the years the Conference has developed a reputation for impartial, non-ideological, scholarly yet practical research and analysis. Agencies often ask the Conference to conduct studies that they could theoretically undertake on their own (in-house or through contract). The Commerce Department, for example, last year asked for Conference assistance in implementing the dispute resolution provisions of the recently approved U.S.-Canada Free Trade treaty. Indeed, there were eleven Federal agencies that transferred funds to the Conference in fiscal year 1988 in

---

[9] See, for example, FCC v. ITT World Communications, Inc., 466 U.S. 463, 471 (1984) and Johnston v. NRC, 766 F.2d 1182, 1185 n.2 (7th Cir. 1985).

[10] Owens v. Brock, 860 F.2d 1363, 1366 (6th Cir. 1988); Escobar Ruiz v. INS, 813 F.2d 283, 289 (9th Cir. 1987), aff'd 836 F.2d 1020, 1024 (9th Cir. 1988)(en banc).

[11] See 54 Fed. Reg. 6284 (1989), attached as Appendix H.

order to obtain Conference expertise and assistance for specific projects involving administrative processes.

The Conference is often able to recruit distinguished scholars as consultants at a lower cost to the government than individual agencies would ordinarily pay for comparable studies. These results stem from at least four principal considerations. First, the Conference is an independent agency. Scholars need not be concerned that their research will be force-fed in a particular direction or that their studies will be perceived as being influenced by the employing agency. Second, the government members of the Conference offer our consultants extraordinary access and cooperation in their research effort. Third, scholars know that consultant reports will be subject to the Conference's unique "peer review" process. The breadth of expertise and exchange of ideas between research scholar and our government and private sector members would not be readily available outside the Conference structure. Finally, researchers appreciate that the Conference and its staff will pursue implementation of meritorious recommendations. This factor is particularly important when issues cut across agency lines or invade an agency's turf and might otherwise lack the necessary constituency for adoption.

The Conference's recommendation to facilitate judicial review when agencies fail to act is an excellent example of the benefits of Conference collegiality. Statutes governing judicial review of agency action ordinarily provide for direct review in the courts of appeal. That principle was reaffirmed by the United States Court of Appeals for the District of Columbia Circuit in the so-called *TRAC* case.[12] But appellate procedures take time and there is no ready opportunity for fact-finding, as there would be in the district court. While such procedures are fine for customary review of agency action, those who litigate against the government and seek prompt judicial scrutiny before an agency has acted, or when it refuses to act, find the procedures cumbersome. A public member of the Conference asked us to study the issue.

A Conference consultant concluded that the *TRAC* decision was doctrinally unsound. He also argued that the decision had practical deficiencies. To remedy these failings, he advocated a scheme of concurrent district court and court of appeals jurisdiction whenever courts were asked to review any type of preliminary agency action.

The consultant's report produced spirited debate within the committee and at the Plenary Session. Most Conference members, both inside and outside government, were not interested in the doctrinal aspects that were a significant part of the consultant's report. They were interested, instead, in the practical effects. By and large, the agencies opposed the consultant's recommendations. They were comfortable with court of appeals practice, where judges had developed an expertise in agency cases. Agencies were unwilling to support a shift to district court review. As things evolved, even the private practitioners were largely unconcerned about most types of preliminary challenges to agency activity. They were concerned principally about delay. Although the committee was prepared to limit its recommendation to delay cases, the Plenary Session returned the matter to the committee for further exploration.

The chairman of the Conference's Judicial Review Committee decided on a novel approach. He asked for a meeting with the D.C. Circuit judges, including the Chief Judge, to discuss the practical ramifications of the *TRAC* decision. What emerged from that meeting was an agreement that the court would modify its internal rules of practice to ensure expedited handling of cases alleging an agency's refusal to act. The committee adopted the compromise, the Plenary Session approved the recommendation, and the court issued an official order modifying its rules.

The compromise reflected Conference activity at its best. The consultant's report was a thoughtful analysis of a troublesome issue with a focus on theoretical concerns. The interaction of private and government members through the committee and Plenary process redirected the debate to more precise, practical issues. New, consensus alternatives emerged. And, finally, the Conference served as the instrument through which individual practitioners met with members of the court to address the issue in a non-adversarial setting.

The Conference system is not perfect. Some may argue that certain of our efforts are not worthwhile, or stray too deeply into areas of policy better left to others. But our mission to superintend the fairness, accuracy, efficiency, and acceptability of the administrative process is—by statute—a broad one. And the line between substance and procedure is often difficult to discern. Where our recommendations affect vital

---

[12] Telecommunications Research & Action Center v. FCC, 750 F.2d 70 (D.C. Cir. 1984).

interests, groups and individuals may well complain. Because process can affect substance, and we are often at the cutting edge of process issues, some perceive our efforts, now and again, as overstepping our mandate. That is not our intent. Nor do I believe we have done so during my tenure at the Conference. What the Conference has done is to move positively into procedural areas that require examination. I believe our track record demonstrates, on balance, that we have done so thoughtfully, in accordance with our statutory directive, and with discretion.

CONFERENCE THEMES

Because our mission is so encompassing, and our resources are limited, it is essential that we channel our research and implementation efforts into selected thematic areas, attempting to predict which subjects are the most likely candidates for significant improvement. Our task over the past 2 years was made somewhat easier because, as part of the fiscal years 1988 and 1989 appropriations process, Congress directed us to examine three specific subject areas—the fairness and efficiency of various aspects of immigration procedure; administrative procedures associated with the stabilization and revitalization of the health of the nation's banking industry; and the effectiveness of the grievance procedures and existing equal opportunity laws in the Federal workplace. We initiated projects in all three areas and such projects have been completed or are likely to draw to a close in fiscal year 1989.

In addition, on its own initiative, the Conference maintains an active and ongoing interest In the procedures that affect ethics in government issues, alternative methods of dispute resolution, and science and health matters. We pursue, as well, our "bread and butter" initiatives in the areas of rulemaking, adjudication and judicial review of agency action.

Productivity increases led the Conference to conduct three plenary sessions instead of the usual two during fiscal year 1988. It held its usual two-day meetings in December 1987 and June 1988 and a special, one-day meeting in September 1988. It held another Plenary Session in December 1988. During that overall period, it adopted recommendations covering the administrative law waterfront. The text of all 1988 recommendations is attached as Appendix E.

1. *Nascent Administrative Law Issues in the Immigration Process*

As the members of this subcommittee are well aware, the substantive issues affecting U.S. immigration policy were much debated and largely addressed in the Immigration Reform and Control Act of 1986. Because little attention was directed to the administrative procedures developed to determine the rights and privileges of private individuals affected by the immigration laws, and the obligations of the Federal Government under those laws, the Conference was asked to study those procedures. In response to Congress' directive, we sponsored a Congressional seminar on potential immigration studies in the fall of 1987, at which Representative Albert Bustamante of Texas, on behalf of the Hispanic Caucus, was a principal participant. Several projects emerged from that seminar.

First, the Conference engaged David S. North of TransCentury Development Associates, an authority on immigration issues, to prepare two reports on the alien legalization program. The first, submitted in the spring of 1988, evaluated whether the legalization program should be extended beyond its May 4, 1988 deadline, and concluded that it should. Although the Congress declined to adopt this recommendation, Mr. North's study was widely discussed during the course of the debate on the extension issue.

In December, Mr. North submitted a follow-up report addressing a wide range of questions dealing with the Immigration and Naturalization Service's implementation of the second phase of the legalization program. The report is currently under review by the Conference's Committee on Adjudication.

In January, Professor James Nafziger of the Willamette University College of Law submitted his report on the reviewability of visa denials by consular officers. As the subcommittee is aware, almost all aliens who wish to enter the country must first secure visas, which are issued by consular officers at the various U.S. consulates abroad. Review of those decisions by the Visa Office of the Department of State in Washington is largely advisory, however, and the courts have generally declined to review consular officers' decisions. Professor Nafziger's study examines the need for administrative reform of the visa denial process and recommends, among other things, that consular officer denials be accompanied by a more explicit statement of reasons, that the Visa Office play a more active role in the review process, and that Congress and the State Department expand the scope of review. Professor Nafziger's report is also under review by the Committee on Adjudication and may be ready for Conference consideration at its June Plenary session.

Finally, the Conference is examining the procedures employed for handling asylum claims—including hearing procedures, administrative appeals, and judicial review. As you know, the need for reform of existing procedures has been demonstrated in recent weeks by the inability of the system to handle the overwhelming influx of applicants in southern Texas, Miami and elsewhere. Last spring, the Conference engaged Professor David Martin of the University of Virginia School of Law as our consultant for this project. For the substance of asylum policy as mandated by Congress to work, it is absolutely essential that the procedures employed be as efficient as possible while ensuring the rights of potential asylees. Professor Martin's recently submitted draft report proposes a number of significant short- and long-term reforms to the system.

2. *Procedures Employed by the Banking Regulatory Agencies*

During the past year, the Conference's Special Committee on Financial Services has continued its activity in light of the growing problems in the domestic banking industry. We do not involve ourselves in the basic policy questions affecting financial institutions. Rather, as you will see from a description of our projects, the committee focuses on the procedural and structural aspects of government regulation of financial services.

The Conference has commissioned seven studies of the procedures affecting the regulation of financial services. The first of these studies, Professor Michael Malloy's review of adjudication practices and procedures of the Federal bank regulatory agencies, was reviewed at our December 1987 Plenary Session, where the Conference recommended various steps to improve the formal adjudicatory process with respect to regulatory enforcement, including the development of uniform rules of practice and procedure for all banking agencies. The House Government Operations Committee report entitled "Combating Fraud, Abuse and Misconduct in the Nation's Financial Institutions: Current Federal Efforts are Inadequate" (H. Rep. No. 100-1088) substantially incorporated our recommendations.

Two projects were completed during 1988. A recommendation adopted at our June 1988 Plenary Session, based on a report by Professor Alfred Aman of Cornell University, urged the Federal Reserve Board to provide by regulation that its 91-day rule governing action on applications under the Bank Holding Company Act would be extended only if highly significant information is received that warrants reopening an applicant's file. Last September, the Conference acted on Duke University Law Professor Lawrence Baxter's report concerning the proper locus for adjudication of claims against failed savings and loan institutions. The recommendation took no position on the statutory and constitutional questions at issue in litigation now pending in the Supreme Court but urged Congress to examine whether liquidation claims should be handled administratively or in court. The Conference proposed procedures to be followed if Congress decides that an administrative adjudication process is the more desirable way to resolve such claims.

Four projects are pending. The first is an examination of bank failures and risk monitoring by Professor Jonathan Macey of Cornell University and Professor Geoffrey Miller of the University of Chicago. The second is a study of the bank examination process and informal enforcement practices by Professor Dennis Aronowitz of Boston University. The first project could be on the Conference's agenda as early as this June. The second will most likely be considered in December. Future projects include a study of the enforcement procedures used by the bank regulators and a study of how the bank regulatory agencies enforce the Securities and Exchange Act of 1934. The Conference has developed an ongoing liaison with various Senate and House banking committee members and staff to help ensure a thorough study of these issues which will be of benefit to Congress as it examines more general issues affecting the banking and related industries.

3. *Federal Grievance and EEO Procedures*

At present, Federal employees with employment related grievances have at least six different procedural avenues by which to seek redress. These include internal agency review of some grievances (such as suspensions, reprimands or denials of leave); formal appeal to the Merit Systems Protection Board (MSPB) for a wide range of adverse actions; union grievance procedures, including arbitration in some cases; informal equal employment opportunity (EEO) procedures, coupled with a right to seek review before the Equal Employment Opportunity Commission; so-called "mixed" appeals to the MSPB for grievances which include discrimination issues; and access to the Special Counsel for employees who are "whistleblowers" or allege certain prohibited personnel practices.

Little attention has been given to the substantial overlap among, or redundancy with in, grievance procedures. With the encouragement of the Domestic Policy

Council and at the direction of Congress, the Conference undertook a systematic study of all employee grievance-type procedures with a view toward developing recommendations for rationalizing the process and providing faster, less costly alternative dispute mechanisms while ensuring that the fundamental fairness of the employee grievance process is maintained.

Professor William Luneburg of the University of Pittsburgh Law School served as the Conference's principal consultant on the project. He submitted a preliminary draft of a report last fall which has been circulated to affected Federal agencies and interested committees of Congress in both houses for comment. To obtain a public administration perspective, we contracted with Professor Jay Shafritz of the Graduate School of Public and International Affairs at the University of Pittsburgh to provide comment on Professor Luneburg's effort. The Conference's Committee on Governmental Processes has begun its deliberations on the project, which is expected to be presented to the June Plenary Session.

4. *Procedural Framework for Ethics in Government*

The Conference also undertook new initiatives during fiscal year 1988 concerning ethics in government issues that implicate the fairness of government procedures. As I explained earlier, it adopted recommendations which would establish standards of conduct for Presidential transition workers. President-Elect Bush and President Reagan issued directives essentially implementing the Conference's recommendation. We also suggested that Congress provide an acceptable means for workers coming into government to divest themselves of financial holdings without suffering adverse tax consequences. Finally, we published a source book on government ethics.

5. *Alternative Methods of Dispute Resolution*

In fiscal year 1988 the Conference continued its initiatives for encouraging the use of alternative means of dispute resolution (ADR) as a way to reduce litigation costs and delay throughout government. At the request of EPA, the Conference prepared a model policy statement and draft rule to ensure appropriate confidentiality of information divulged to mediators and other neutrals in the course of agency settlement negotiations. In addition, the Office of the Chairman is developing a roster of neutrals for use by agencies interested in using ADR. The Conference also adopted recommendations concerning the use of dispute resolution to resolve government contract disputes and commodity reparations cases. With regard to the contract dispute recommendation, the General Services Administration is considering a proposed change to the Federal Acquisition Regulations (FAR) consistent with the recommendations. Finally, the Conference, pursuant to an interagency agreement with the Department of Commerce, is bringing its expertise to the ADR provisions of the U.S. Canada Free Trade Agreement.

The Conference has actively sought to support several Congressional initiatives which would implement its recommendations concerning alternative dispute resolution in general, and negotiated rulemaking in particular. In the 100th Congress the Conference worked closely with Congressional staff in preparing the Administrative Dispute Resolution Act (S. 2274 and H.R. 5101), which would put into effect several Conference recommendations. It also helped in the drafting effort, and later testified in favor of, S. 1504 and H.R. 3052, companion bills which would encourage the use of negotiated rulemaking by agencies and clarify how the provisions of the Federal Advisory Committee Act should be applied. S. 1504 passed the Senate unanimously but Congress adjourned before action in the House could be completed. The Conference will support passage of S. 303 and H.R. 743, the Negotiated Rulemaking Act of 1989, in the 101st Congress. In addition, with the financial assistance of a number of Federal agencies, the Conference was able to publish a major source book reference for agencies, sponsor several roundtable conferences, and provide ADR training for agency administrative judges and contracting officers.

6. *Procedural Issues in Science and Health Care Administration*

The Conference continues its considerable efforts in the area of health care regulation. As the subcommittee may recall, in 1987 we studied the administration of the state-level disability benefit determination process, the role of the Social Security Appeals Council, and the method by which the Health Care Financing Administration decides what aspects of medical care are covered by, and thus reimbursable by, Medicare. In November 1988 the Conference received from Timothy Jost, Professor of Law and Hospital and Health Services Administration at The Ohio State University, a comprehensive analysis of the numerous administrative law issues involving the Medicare utilization and quality control Peer Review Organization (PRO) programs. The matter was debated at the December 1988 Plenary Session, where

the Conference heard presentations from representatives of the American Medical Association, the American Hospital Association, the American Association of Retired Persons, and the Office of Inspector General at the Department of Health and Human Services. Although these groups did not always agree with each other on every issue, they participated comfortably in the committee deliberations leading to the adoption of the committee's recommendations and cooperated fully in our analysis of the difficult procedural issues presented. The Conference was unable to reach conclusions at its December session and proposed that the matters be revisited at a special session in February 1989. Budget constraints have since required that further review of the issues be deferred until June. In the months to come, we will also be examining whether disability adjudications can be better performed by physicians rather than lawyers.

In 1988 the Conference examined two novel and nettlesome issues in the vanguard of scientific analysis and technology. In September, we took up the methodologies used to make an estimate of the so-called "value of human life" where a statute or administrative regulation requires an agency to make such estimate as part of a larger analysis of the costs and benefits particular regulatory approaches. Recognizing that the decision to place a dollar value on human life is a controversial and complex topic beyond its charter, the Conference focused its recommendations on procedures to ensure full public disclosure of the dollar amount used and the underlying empirical information and methodologies employed to reach that dollar figure, and the development of uniform governmental criteria. Last December we also adopted recommendations intended to guide agencies in addressing the questions that arise when an agency considers whether to acquire or release information in electronic form.

7. *Administrative Procedure Act Issues*

Despite our emphasis on current themes, the Conference has never lost its focus on problems arising under the Administrative Procedure Act. A number of difficult issues affecting Federal agencies are currently being considered or have recently been addressed by the Conference, including Federal court jurisdiction over allegations of agency delay, procedures encouraging agency use of settlement judges, and the development of model rules for agency adjudication.

A complete list of pending projects is attached as Appendix C.

CLEARINGHOUSE, TRAINING AND ADVISORY ACTIVITIES

The Conference is directed by statute to "arrange for interchange among administrative agencies of information potentially useful in improving procedure." See 5 U.S.C. 564(2). We widely disseminate our research reports, alert government officials, including all members of the Senior Executive Service, to our projects through publication of a newsletter, and open our library to other agencies and the public. We sponsor formal and informal meetings for agency personnel, chair informal groups such as the Council of Independent Regulatory Agencies, and produce compilations and documents which are useful to agencies generally. We sponsor each spring a seminar for members of independent regulatory agencies to permit them to step away from their everyday work and address common problems of the regulatory process. Each fall, we offer a seminar for Congressional staff that focuses on the legislative drafting implications of administrative law. Approximately 100 Congressional aides attended our program last November.

We have expanded our training effort to educate public officials on the methods for resolving disputes more efficiently or less expensively through the use of alternative methods of dispute resolution (ADR). Administrative judges at the Armed Services Board of Contract Appeals were the first group to participate in the Conference's training. With assistance from the Federal Mediation and Conciliation Service, Conference staff members presented a series of three sessions focusing on the fundamental issues in ADR, including mediation, and skills enhancement. A comparable program will be offered this spring in California to contracting officers and other officials of the U.S. Forest Service.

The Conference augmented its advisory and implementation activities in fiscal year 1988. Historically, our efforts to inform Congressional committees of recommendations relevant to their agendas were haphazard. In 1987, for the first time, we were able to mount a more systematic effort in this regard by devoting the full-time resources of a professional staff member to this endeavor. This past year the Conference was able to provide assistance to the Congress and to agencies by seeking to participate in decisions regarding the implementation of Conference recommendations. During the second session of the 100th Congress, for example, the Conference

presented testimony eleven times on various legislative proposals involving administrative law issues.

In 1987, the Conference inaugurated a colloquy series to help carry out its statutory mandate. We built on this popular and successful effort by offering a number of colloquies and symposia in 1988. One colloquy, entitled *Transportation Deregulation: Is There a Need for a Mid-Course Correction?*, was led by Transportation Secretary James H. Burnley IV (a Council member). CBS President Laurence A. Tisch joined issue with Federal Communications Commission Chairman Dennis Patrick at a colloquy on Broadcast Deregulation. Last December the Conference sponsored a program on post-employment restrictions, at which Congressman Barney Frank and Counsellor to the Vice President Boyden Gray, were the featured panelists.

The Conference hosted a full-day symposium on procedural issues in setting Federal user fees which was attended by over 100 Federal agency officials. The symposium was funded in large part by Federal agencies charged with the responsibility for administering user fee programs. Although the Conference recognized that whether or to what extent to shift the burden of particular governmental programs to special beneficiaries is a policy judgment for Congress or the agencies to make, we were prepared to lend our assistance to the development of uniform approaches to help ensure that, to the extent feasible, those who deal with the government are dealt with in a consistent and, hence, equitable, fashion. OMB director and former Council vice-chairman James C. Miller III, spoke at the symposium, along with other government and private sector economists and lawyers.

Just a few weeks ago, the Conference organized a highly successful seminar on implementation of the dispute resolution procedures of the U.S.-Canada Free Trade Agreement. Over 300 government officials and members of the private sector from both countries attended the one-day conference, which brought together 35 experts to consider a range of important issues pertaining to the new dispute resolution procedures. Professor Victor Rosenblum of Northwestern University Law School, and Chairman of the Conference's Advisory Committee on Administrative Procedures under the Free Trade Agreement, chaired the session. Discussions were led by Gary Horlick of the law firm of O'Melveny & Myers, Professor Robert Hudec of the University of Minnesota Law School, and Professor Andreas Lowenfeld of New York University Law School, who serves as a Conference consultant. The high caliber and varied experience of the invited participants made the program unique in its ability to develop thoughtful contributions to this important area of administrative law. The program was undertaken in part with funds transferred to the Conference by the Department of Commerce in support of its request that we examine the dispute resolution procedures of the recently approved agreement.

Several other conferences were held during 1988. The Special Committee on Ethics chaired by Fred F. Fielding brought together forty current and former high-level government officials and government ethics experts including former counsels to Presidents Ford, Carter and Reagan and several members of Congress. Materials developed by the Special Committee have been used by the President's Commission on Federal Ethics Law Reform, whose staff has also consulted with Conference staff members. Last May, the Conference co-sponsored with the General Services Administration a program on Federal advisory committee management. We plan to do so again in 1989.

The Office of the Chairman also hosts various individuals and groups from foreign governments who are interested in questions of governmental process. While this work is really a small and almost unintended consequence of our activity, we think that, in a small way, it assists in providing foreigners with an appreciation of how we strive in a democracy toward the "rule of law" in an administrative state. Congress has recognized this function by providing that $1000 of our annual appropriation may be used for official reception and entertainment expenses for foreign visitors. During the past twelve months, these visitors have come from Australia, Israel, Italy, China, Ghana, Pakistan, Canada, the Soviet Union and Great Britain.

Finally, the Office of the Chairman maintains a library that not only includes Conference publications and the archival records of past Conference research projects but also an excellent collection of materials on a broad array of administrative law subjects. The collection is frequently used by personnel from other Federal agencies who need information on the Administrative Procedure Act, the Freedom of Information Act, the Sunshine and Privacy Acts, or other legal material relating to administrative law. The library is a Federal Depository Library and is open to the public.

1990 ACTIVITIES

The Administrative Conference's fiscal year 1990 budget request is for $1,865,000, which is the same amount requested in fiscal years 1988 and 1989. In the two past years, the Conference has seen its workload doubled. The number of requests from agencies, the Administration, and the Congress for Conference assistance has steadily increased and we have put more effort into implementation activity. Despite this added implementation effort, our research initiatives required the addition of an extra plenary session in September 1988.

In 1988 the Conference found it necessary to add personnel to meet the tremendous growth in its workload. But it absorbed the salary costs of two additional FTE's and salary increases for staff within its 1988 and 1989 budgets.

The Conference will not be conducting as many self-initiated research activities in fiscal years 1989 and 1990 as it would like. Rather, the Conference will concentrate on matters in the pipeline which are coming to fruition. In addition, it will undertake new projects requested by agencies for which satisfactory arrangements for the interagency transfers of funds are available. We hope that this approach will allow us to increase the amount of funds available for research. It is important, though, that the Conference not become overly dependent on funds from other agencies, which could compromise the Conference's independence and make it reliant on the very agencies whose procedures it is charged with evaluating.

During the remainder of fiscal year 1989, and into fiscal year 1990, in order to concentrate its limited resources for maximum impact, the Conference will continue to focus on the following thematic areas:

1. *Immigration Procedures.*

Several projects of special interest to Congress include a review of the program to legalize aliens; a study of asylum procedures; and an examination of current limitations on the reviewability of consular officers' denials of visa applications. Other procedural aspects of the 1986 immigration law reform are also deserving of study.

2. *Procedures of Financial Services Regulatory Agencies.*

The Conference will continue its review of procedures relating to audit and inspection of banking agencies, the regulation of bank and savings and loan failures, and enforcement of anti-fraud and similar provisions.

3. *Alternate Means of Dispute Resolution.*

The Conference will continue its work in ADR by developing criteria for a governmentwide roster of ADR "neutrals" and studying confidentiality concerns associated with mediation. The Conference will continue its efforts to further the potential uses of ADR in environmental disputes and continue to promote its use in government contract cases.

4. *Procedural Framework for Government Ethics.*

The application of ethics laws to members of Federal advisory committees will be examined. The Conference will also review public financial disclosure requirements and agency employee standards of conduct.

5. *Processing Government Personnel Grievances.*

The Conference will continue, and complete, its ongoing review of the Federal employee personnel grievance and appeals system.

6. *Regulation.*

Studies include an examination of risk communication as a regulatory technique, regulation of biotechnology, and the use of peer review organizations in Medicare regulation.

7. *Rulemaking.*

The Conference will complete its revision of its widely-used Guide to Federal Agency Rulemaking. It was last revised in 1983 and needs to be updated to reflect current judicial and legislative developments.

8. *Adjudication.*

The Conference expects to make major progress on its two-year effort to develop model rules of practice for agency adjudication. It will also consider the potential for increasing the use of medical decisionmakers in disability adjudication.

9. *Judicial Review.*

The Conference will explore the results of judicial remands of cases to administrative agencies. It will also look at the manner by which agencies should assert exper-

tise when construing their regulatory statutes and, in this connection, the appropriate scope of judicial deference which should be given such agency decisions.

STATISTICS

The Conference will not undertake any significant re-entry into the statistics gathering business. The Conference has a statutory responsibility to collect statistics concerning activities under the Equal Access to Justice Act and report annually to the Congress. In the past, the Conference also compiled highly valuable caseload and individual case data in connection with formal proceedings at almost thirty agencies and departments. This government-wide inventory provided a unique reference for persons concerned with issues of procedural reform or agency organization and management. We discontinued this function several years ago and increasing demands on our resources have made it difficult for us to return to this important work. This kind of recordkeeping, however, is an extremely worthwhile endeavor and one which I would certainly like to renew if resources should ever permit. In my view, it is unfortunate that no one in the Federal establishment is keeping statistics of this kind—which could provide knowledge about a key aspect of the administrative process which would be helpful to Congressional and administrative decisionmakers.

CONFERENCE CONTRACTS

In its report accompanying the 1989 appropriations legislation, the Senate Subcommittee on Treasury, Postal Service and General Government directed the Conference to provide with its fiscal year 1990 budget justification a list of all contracts proposed for award or consideration in fiscal year 1990 and awarded during the prior fiscal year. Attached as Appendix I is a list of all contracts awarded in fiscal year 1989 (to date). Unfortunately, we cannot as yet ascertain with precision what contracts are likely to be awarded in fiscal year 1990. So we have compiled a list of subject areas on which decisions will be made between now and the end of fiscal year 1990. We trust that is satisfactory to the subcommittee at present.[13] They are:

—Inspectors General
—The False Claims Act
—Review of Privacy Act issues
—Review of the Equal Access to Justice Act
—Forum choice in pre-award and post-award contract disputes
—Role of self-regulatory organizations in securities regulation
—Military tort claims
—Regulation of biotechnology
—The Child Vaccine Law as a model for tort reform
—Regulation of the financial planning industry
—The "bubble concept" in environmental regulation
—Administration of the Export Administration Act
—Anti-dumping and countervailing duty disputes
—Specialized courts of review
—Government corporations in the Federal system
—Implementation of the Program Fraud Civil Remedies Act
—Statutes precluding judicial review

CONCLUSION

I am aware that this is a time requiring fiscal restraint. Indeed, to do our part, the Conference budget has remained at the same level for 3 years running. We have more than doubled our activity largely through productivity gains. It is my hope that during this period of fiscal restraint the subcommittee will focus on the overall efficiency of the Conference's operation. For a very modest cost the United States receives tremendous value in the form of volunteered expertise from Conference members. I urge the subcommittee not to lose that valuable resource by failing to provide adequate funds to support the Conference's work.

Fiscal restraint and efficiency make this the precise time to strengthen the Conference's efforts to streamline the administrative process. The Conference's work often results in considerable savings to the government and to the citizens who seek to use the administrative processes in their dealings with government. I think of

[13] The Conference is in compliance with Section 527 of Public Law 100–440.

our budget, at least in part, in the nature of "seed money" which is likely to be repaid in enhanced efficiencies throughout the government.

But this is not the time to abandon the Federal Government's historic, forty year effort to make the manner in which it deals with its citizens more fair and equitable as well—even recognizing that enhanced fairness and equity carry a price tag.

In this connection, I must note that the Senate report which accompanied the Conference's appropriation last year indicated that the committee was

> concerned that the agency may have lost sight of its initial purpose of providing the Government with objective information on how agencies can improve their administrative procedures. According to the agency's budget justifications, the Conference is now involved in conducting studies on such issues as user fees; immigration reform; agency hiring of private attorneys; and ethics of the Presidential transition team.
>
> The Committee believes that this small, important agency should be more focused and spend its time on specific issues of concern to the agencies of the Federal Government that deal with improvements in their administrative procedures.[14]

We take these concerns very seriously. As I suggested at the outset of this testimony, the Conference's mandate is a broad one. To be sure, we are directed to study only administrative procedure. But, as I explained earlier, Congress specifically defined administrative procedure broadly to include any aspect of agency organization, procedure, or management which may affect the fair or equitable consideration of public or private interests or the efficiency of agency processes.

I hope I have demonstrated that the Conference has not strayed from its fundamental mission. Our studies of immigration issues were narrowly focused on procedural problems associated with the new immigration laws. They were done at the express request of our House appropriations subcommittee and with the active support of members of the Hispanic Caucus. Our user fee initiative was likewise carefully tailored to procedural issues—not the efficacy or desirability of user fees themselves. It was directed toward the achievement of uniformity throughout the Federal Government. Our efforts were underwritten with funds transferred from other agencies precisely because they were matters of concern to those agencies.

Our review of limitations to be placed on members of transition teams and the hiring of private attorneys by Federal agencies were self-initiated. But I make no apology for that. In both instances, they implicate issues of fairness and equity, or efficiency, or both. The Conference stepped into these areas, in part, because agencies lacked the time, the ability, or the incentive to examine these matters themselves.

Transition teams, made up largely of members of the public who are familiar with an agency's work, or appear before the agency on behalf of clients, are a critical resource for a President-Elect. But, unlike government officials generally, or even special government employees, transition team members are not subject to any of the usual conflict-of-interest restrictions. They can represent clients before Federal agencies at the same time they are evaluating those agencies for a new Administration. They obtain confidential information from the agency as part of the transition process; that information can give a transition team member a critical advantage against a private sector adversary if, for example, the transition team member later represents a competing applicant or interest in the same agency proceeding. The Conference recommended, among other things, that transition team members not be permitted to use or disclose nonpublic information except for the public purposes of the transition; that, during the transition period, they not knowingly take action on matters affecting the agency which could inure to their direct financial benefit; and that, for 2 years after the transition, they not represent clients in any particular matter as to which they had obtained government information not available to members of the public. To my mind, our recommendations come squarely within the Conference's mandate to examine those aspects of agency organization, procedure or management "which may affect the equitable consideration of public and private interests." The fact that our transition Code of Conduct was promptly adopted by the new Administration is evidence that the idea was also long overdue.

We decided to look at agency procedures for hiring private attorneys because of the recent history of rapid increases in expenditures. Our study and resulting recommendation focused on the efficient use of existing legal expertise in the government and the need for appropriate competitive procedures to assure fairness in se-

---

[14] S. Rep. No. 100-387, 100th Cong., 2d Sess. 60 (1988).

lecting private counsel. As the subcommittee may be aware, Senator Thurmond has recently introduced legislation, S. 90, to change certain rules governing the payment of private attorneys by the government. I believe we can bring our expertise to bear to assist agencies and the Congress in devising procedures for the hiring of private attorneys that makes the process more efficient and more equitable.

I welcome the varied roles which the Administrative Conference performs in response to congressional direction or the suggestions of others interested in the administrative process. We have accomplished quite a lot in the past year and I look forward to significant achievements in fiscal year 1990.

[CLERK'S NOTE: Appendixes A through E are available for review in the subcommittee files.]

TABLE Z STANDARDS

Senator DECONCINI. Mr. Breger, your budget justification shows a reduction—excuse me. Does anyone else have a statement?

Mr. BREGER. I know that Mr. Gellhorn must leave at 10:25, and I do not know if he or Mr. Morrison want to make a few comments.

Senator DECONCINI. Do you have any opening statement you care to make, Dean Gellhorn?

MAKING THE GOVERNMENT WORK BETTER

Mr. GELLHORN. I would just note, Senator, briefly that I have spent the last 2 years as chairman of the rulemaking committee of the Conference, and the process by which it engages in its studies and its recommendations is really designed to do something, it seems to me, in every fashion to improve the operation of the administrative process. You get a study. Then you get the agency members who are affected by it, they get a chance to participate in it. Then others who have an interest participate.

I would illustrate it with a study we did 2 years ago of OSHA and its rulemaking, which was widely criticized as being very ineffective. They had not modified the table Z standards of chemicals since 1971. We got a recommendation out of a study from Professor McGarity of Texas. We presented it to OSHA. They commented on it. We presented it to employers, to unions, to others who would be affected. As a result of that recommendation adopted 2 years ago, OSHA has now, last September, issued a new table Z standard, substantially modifying the regulation of the workplace.

I would say but for the Administrative Conference, it would not have occurred. And what I would suggest, in other words, is that the Administrative Conference, not always, but often is at the cutting edge of making this Government work a little better. And in that respect, I think it is a good buy for the dollar.

You and I have known each other since 1975 when we were both citizens of Arizona. You kept that citizenship. And I think we have both shared that concern about Government being sensible, using its resources carefully. So I have been persuaded that, you know, it is not perfect, but the way it works is a very sensible and useful approach. That is all I care to say.

Senator DECONCINI. Thank you, Dean Gellhorn. Yes, Mr. Morrison.

CONFERENCE ACTIVITIES ARE UNIQUE

Mr. MORRISON. Let me just make a couple of points, Senator. First, I want to emphasize the ratchet effect of the Administrative Conference's budget of $1,865,000. I myself estimate that in the last year I spent between 50 and 100 hours of my own time at no charge to the Conference, and that is probably on the high side, but there are 40 other public members, none of whom is paid by the Conference, who I would say average approximately 50 hours a year doing Conference work. And if you multiply that by $200 an hour, which for many of the Conference members is very low, you come up with a figure something in the area of $400,000 or roughly a 20-percent augmentation of free labor on top of the Conference's budget.

I think I could say without dispute that there is no agency in the Federal Government that has 20 percent of its resources devoted from outside for nothing.

Second, no one else is doing what the Administrative Conference is doing. Law professors come and they help. They give advice, but they do not have the practical sense that the Conference has. Agencies will not in many cases undertake the self-examination because they cannot be viewed objectively, or they are not interested in it because the issue is one of Governmentwide concern such as our transition regulations that we proposed last year. No one is going to spend the money on their own to do it so it will not be done. And surely no one will do it with the kind of talent and objectivity that the Administrative Conference has.

THE CONFERENCE IS INDEPENDENT

Third, by and large, the recommendations are useful and innovative. This is the Administrative Conference. It is not the administration conference, and the public members and indeed, the Government members, show remarkable independence in their voting habits, in the positions that they take, and the Conference shows great willingness to listen to outsiders in terms of taking on suggestions for what topics ought to be done. In other words, this is really an independent, outside group, not just another arm of the administration, whatever administration it might be.

Fourth, there are a large amount of benefits that are simply never reported any place because they involve cross-fertilization between agencies, between insiders and outsiders, and benefits run both ways. I can personally testify that in a large number of instances, the ability of others to call me and me to call other people from inside the Government and out has facilitated the resolution of difficult problems that would not have been possible but for the goodwill and expertise that has resulted from the Administrative Conference.

Last, Senator, I would like to say that my time as a voting member of the Conference will be up this June. I intend to continue, if asked, to be a Senior Conference Fellow, which means that I will continue to give my time but will lose my right to vote. I am asking people in my office to come in and participate in the Conference, if the chairman is willing to so appoint them, because I believe that it is worth the time of our office, despite the political dif-

ferences we have with this administration, to give our time because the work of the Conference, while not perfect, is very worthwhile, and I urge you to fund it at an adequate level, leaving the amount, of course, to your discretion. Thank you, Mr. Chairman.

Senator DECONCINI. Thank you very much, and let me say we certainly applaud all your efforts, particularly on the part of those of you in the legal profession and in academia. However, is that not, in fact, part of the responsibility of law professors and deans? Don't they as a matter of course donate many of their hours, and when I say donate, I mean that they are being paid a salary from the university or the teaching institution? Is that not part of their professional everyday work? At least it is in the law colleges in my State, and we are very appreciative of all the time law professors give.

Mr. MORRISON. I do not know what the percentage is among public members, but I would say that it is not more than 20 percent of the public members are law school, are university affiliated. The rest of them are in public interest organizations like myself, or they are in law firms like Dean Gellhorn or——

Senator DECONCINI. Is not the same true with public interest lawyers? Is it not part of their job to be involved?

Mr. MORRISON. Yes; but the question is——

Senator DECONCINI. Whether it is the Administrative Conference or an advisory committee that OSHA might ask you to serve on. I do not mean to infer that we do not appreciate that, but to me that is what your job is. If you were not doing it here, I suspect knowing your organization and you a little bit, you would donate your time someplace else because that is what you do for a living. And I think it is most admirable.

Mr. MORRISON. That is correct, but the question is always which agencies or which groups should we devote our time to, and my point is that the willingness of a large number of people from diverse backgrounds to devote substantial amounts of time to the Administrative Conference speaks very loudly of the benefit of the Conference viewed in a very objective area. We put our time where our views are.

TRANSITION CODE OF ETHICS

Senator DECONCINI. Let me ask you this. Did you work on the study on the Presidential transition team?

Mr. MORRISON. Yes; I did.

Senator DECONCINI. How do you justify the Administrative Conference or any other public organization doing a study on the ethics of transition workers and spending taxpayers' money on the transition, which is paid for mostly by the political parties involved, although there is an appropriation for it? What benefits can you see in the Government paying for such a review?

Mr. MORRISON. I would like to let the chairman speak first and then perhaps I will.

Mr. BREGER. It is my understanding, Mr. Chairman, and subject to your correction, that under the Transition Act which gave $3.5 million to whichever party won for the transition, in fact, no pri-

vate funds were used in the transition so that, in fact, the actual Government transition——

Senator DECONCINI. Let me interrupt you just a minute. I understand from talking to a number of people who work on the transition team, that they do just as you did, they volunteer their time and their efforts without pay, for whatever motives they may have, and usually those motives are very good. The transition gets a lot of free time and efforts.

Mr. BREGER. I was merely speaking to the technical point that no private or political party moneys were used either in this transition or, it is my understanding, would have been used if there had been a Democratic transition. Our concern was to study procedures which would improve ethics in Government.

Senator DECONCINI. Who got you into a study on the transition workers? Was it a judgment that the Conference made on its own?

Mr. BREGER. Yes, sir; and when I say my own——

Senator DECONCINI. No; I mean the Conference.

Mr. BREGER. The Conference made that judgment.

Senator DECONCINI. Are there other agencies that are charged with conducting that kind of study, that you know of?

Mr. BREGER. Not to my knowledge, and certainly no other agency produced such a study. As you know, the study was accepted in large measure by the Bush administration, and I can tell you for a fact that members of the Dukakis team were very interested in that study as well.

We thought it was important to help assist the transition team and the Government because you must remember our proposal was directed to government officials, to help assist them in promoting ethical behavior in a time, frankly, of much practical uncertainty as to who the proper people to speak with are and are not, who the authorized people are to share nonpublic government information with, and what the proper ethical rules of conduct should be.

There might be a misapprehension here, Senator, because the bulk of our recommendation is directed not to transition team members but rather to present government employees, making suggestions to Federal employees paid by the U.S. Government. It is a recommendation about whom they should be speaking with and under what conditions they should be speaking with those persons.

There is considerable evidence that in the past, during Presidential transitions, there has been much uncertainty if not anarchy. There are many self-appointed transition officials who come in and want to talk with Government employees—often about otherwise confidential Government information—and we wanted to stop that. That is one reason we said there should be an authorized list of persons on the transition to speak with. That rule was accepted and followed, and we also suggested that there should be a code of ethical conduct.

Senator DECONCINI. Did you consult with the Office of Government Ethics?

Mr. BREGER. Yes, of course.

Senator DECONCINI. In some of your material you indicate that you reviewed the application of ethics laws to Federal advisory committees. Yet the Office of Government Ethics has informed us

that there is no question regarding the applicability of Federal ethics laws to Federal advisory committees.

According to the Office of Government Ethics, if an advisory committee is established to serve a Federal function, then the employees are governed by the ethics laws that pertain to special Government employees. The Office of Government Ethics maintains that the law is clear in this area. The only clarification that is necessary is the intended function of the advisory committee at its inception.

How do you explain to me that the issue was worthy of the limited resources of your Conference when the experts in the area find no confusion?

Mr. BREGER. Well, let me just say that while I respect very much the views of the Office of Government Ethics, we would be happy to share with you our study, and when you read our study, I think you will be personally convinced that it was an important question over which there is confusion. I might add, Mr. Chairman, that the U.S. Senate in committee hearing after committee hearing has had numerous discussions over problems they found in what they consider conflicts of interest in Federal advisory committees and by members of advisory committees.

Whatever the assertion of OGE, Mr. Chairman, the U.S. Senate, and individual Senators and Congressmen have not felt that way and have held hearing after hearing on the subject. We would be happy to just push the buttons and run you out a very long list of hearings on conflict of interest with regard to Federal advisory committees.

I am going to ask Mr. Morrison to comment because he is an expert on that subject.

Mr. GELLHORN. I am going to excuse myself. I have to catch a plane.

Senator DECONCINI. Nice to see you. Come back to Arizona and visit us.

Mr. GELLHORN. Good to see you, sir. Thanks.

Mr. MORRISON. I am a member of the committee, and I think I have some basis for speaking since I think I was the one who suggested to the Conference that this was an area that ought to be looked into for two reasons. One is I do not agree with the Office of Government Ethics that it is clear, because the question in each case even according to their position is whether somebody comes in as a representative of an agency or representative of industry or otherwise.

And that is a dividing line which the agencies have continuously abused as our study indicates. But second, and more important, we are attacking the problem on which there is no confusion because there is no law on it which is regardless of what the law is, should members of advisory committees who are making important decisions such as, for instance, whether to approve a pesticide, whether to approve a new drug, whether to approve safety procedures for the nuclear industry, should they be required to make public disclosures of their payments from industry sources or their ownership in stocks that may be affected by their decision?

We are taking a very strong view that those kind of disclosures ought to be made as a minimum so that the public can know. That

is something on which there is no confusion because the law is pretty clear now. They do not have to make those kind of public disclosures.

So even if there were certainty, which I disagree with in this area, we think that the law——

Senator DECONCINI. You think the Office of Government Ethics is wrong?

Mr. MORRISON. I think that the clarity that they find is not something that I found. But more importantly, I think that everybody recognizes that if there is clarity it is because they have fit what are called the special government employee into people who are not really employees of the Government.

I am a member of this advisory committee. I am not a special government employee. But the fit is not right, and what we are trying to say is—I think we are going to recommend this—that they ought to draw the statute in a way that covers this thing more precisely.

Mr. BREGER. If this is a matter of importance to you, we would be happy to provide you with analyses from at least a dozen professors——

Senator DECONCINI. No; I do not need the analyses.

Mr. BREGER [continuing]. And people who will make clear to you that the matter is not as clear as OGE has asserted.

Senator DECONCINI. The problem I have with it is that with limited resources, and that is a judgment for you to make, not me, I find it very hard to believe that that is one of the areas you want to study. If you had plenty of resources and plenty of funds, maybe you could afford to do that.

But when you have an Office of Government Ethics that has jurisdiction over ethics—and if they are wrong, they are wrong—and then you decide that the Conference is going to study this area, and then you come to the subcommittee saying you do not have enough resources—I have problems with that.

Thank you for your testimony. I do have other questions I will submit for the record, as does Senator Domenici. We will give you his questions right now. Thank you, Mr. Breger. Thank you, Mr. Morrison, for being with us.

Mr. BREGER. Thank you very much. I am sorry. Is it possible, if it is appropriate, to get a copy of the statement of OGE? We would like to know what they have said.

Ms. LYNCH. Well, there was no written statement. It was just conversations that we had with the Office.

Mr. BREGER. Well, is this a formal position that they are prepared to put in writing?

Senator DECONCINI. We are not here to debate you over the Office of Government Ethics. Thank you very much, Mr. Breger.

Mr. BREGER. Thank you.

Senator DECONCINI. Thank you, Mr. Morrison.

SUBMITTED QUESTIONS

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR DECONCINI

Question 1. The FY90 budget request for the Administrative Conference is $1,865 million; and 21 FTE's, the same level as enacted for FY89.

Please tell the committee, what impact the 4.1 percent pay raise is having on your ability to perform your FY89 requirements?

How will you absorb the additional 2% pay increase in FY90?

Answer. The 4.1 percent pay raise will cost the Conference $36,622 in FY-89. Two new efficiencies may result in allowing that amount to be absorbed. The addition of desktop publishing to the agency's computer network is expected to result in a reduction in layout and typography charges associated with the printing and reproduction budget. This could save $15-20,000 in those charges. Arrangements have been made with the Federal Register to allow for more selectivity in the printing of Conference recommendations in each year's compilation of the Code of Federal Regulations. This may save $2-3,000. The remaining $8-10,000 will be absorbed by eliminating at least one planned research project.

In FY-90, funding a full year of the 4.1 percent pay raise will cost $52,818. An additional two percent pay increase would add $25,011. Current plans are to absorb that amount by not initiating new research projects except those for which interagency transfers of funds are available and by reducing clearinghouse activities substantially.

The Conference's FY-90 request anticipates 23 FTE's rather than the 21 indicated by the question. The increase to 23 FTE's enables the elimination of certain contracts which provide services that can be more economically accomplished by appropriately qualified employees. The service contracts involved are completely eliminated in the FY-90 budget request. The only service contracts remaining in the "other services" category are required contracts with GSA for personnel services and health unit services. It should be noted that on April 1, 1988, OMB agreed to allow the Conference to hire 25 FTE's. While the 25 FTE model would allow more management flexibility and efficiency in the use of Conference resources, it is not achievable the Conference at the currently budgeted level.

Question 2. Your budget justification shows a reduction in "Other Services for Research" from an estimated $32,000 in FY89 to $15,000 in FY90.

Are most of your research projects conducted in-house or have they traditionally been contracted out?

Answer. In the past, the great majority of Conference research projects have been contracted out. Research projects can be accomplished more economically if the Conference research staff spends the time superintending numerous researchers rather than working full time on primary research -- especially given the relatively low stipends paid to highly qualified researchers. Further, outside contractors often have considerable prestige and expertise which is readily acknowledged by the agencies, Congress and the public. In-house research is normally concentrated on clearinghouse publications such as the Federal Administrative Procedure Sourcebook, implementation or advisory efforts, and project planning and evaluation. Occasionally, Conference staff attorneys collaborate with consultants to co-author Conference studies. This is time consuming and is advisable only when the staff attorney is a recognized national expert in the area and when the topic is narrowly defined.

A decision to use an in-house attorney for research projects would effectively tie up that attorney's committee liaison, implementation, and advisory for a

substantial period. It would remove that attorney from supervision of three or four research contracts, thus increasing the workload of other attorneys. In-house research is generally for more expensive than contracting out.

The $15,000 shown in the "other services" category, however, is not for research. It covers the costs of an agreement with GSA to provide personnel services and health unit services to the Conference. Because there will be a number of research projects funded from FY-89 appropriations still ongoing in FY-90 and the Conference expects to initiate a few projects under interagency transfer, it was determined that it would be better to target funds to update one or two Conference publications in FY-90 rather than fund additional research projects. It would be preferable, however, to have the funds to do both.

Question 3. In the Senate Report for FY89, you were directed to provide a list of all FY89 contracts. While you have provided a list of "Initiatives", we have not received a list of "Ccontract" that were executed in FY88 and 89. Please provide this information, borken down by subject matter, vendor, and contract cost.

Answer. The list is provided as Attachment A.

Question 4. How will the reduction in your research budget affect your ability to carry out your primary mission of research?

Answer. The Conference has three statutory missions -- to study administrative procedures and make recommendations for improvement to agencies and others; to arrange for the exchange of useful information among agencies; and to collect information and publish reports. See 5 U.S.C. § 574. Largely through productivity gains over the past three years, these latter two areas have been brought to the strength needed to carry out those responsibilities effectively, while, allowing an increase in the research effort. Indeed, the Conference held an unprecedented third plenary session in FY-88 while also significantly increasing its outreach and implementation efforts. In FY-89 and FY-90, however, the Conference will be forced to reduce the number of self-initiated projects. This can only to be a temporary situation, however. Research is the "seed corn" for future Conference activity and an extended failure to initiate new research would inevitably limit the Conference's ability to respond to Congress and the agencies. Given present fiscal exigencies, the Conference will concentrate on bringing to completion those projects already in the pipeline and undertaking new projects requested by agencies for which satisfactory interagency funds is available.

Question 5. Did you give any consideration to the restructuring of object class priorities to enable the Conference to devote increased resources to research?

Answer. Yes. All non-fixed object classes were reduced. Since there are a number of projects which will be coming to completion which were funded in prior fiscal years, it was not believed to be preferable to reduce the printing and reproduction category as much as the research category in FY-90.

It should be made clear that the completion of research projects triggers a number of expenses in other non-fixed object classes. Committees must meet to review the study and this involves significant travel costs as well as reproduction costs. If a recommendation is approved, it must be published in the Federal Register and the Code of Federal Regulations. Copies must be distributed to assist implementation efforts. A decision to shift funds away from printing and reproduction without reference to the number of recommendations that will likely be ready for Conference consideration would cause serious dislocation to the Conference's deliberative process and its implementation efforts. In short, the fact that the Conference has been successful in increasing productivity with available research funds means that there are some increased costs in other object categories and this must be taken into consideration in any proposed restructuring of object class priorities. In addition, the Conference needs to update reference materials

relied upon by agencies from time to time. These materials cannot be allowed to get too dated.

Question 6. How many of the 21 FTE's are professional versus support staff?

Answer. There are 14.5 professional FTE's (5.5 are staff attorneys) and 8.5 support personnel FTE's on the Conference payroll.

Question 7. What kind of research support is provided to the Conference from the membership on the assembly of the Conference?

Answer. While the members of the Conference devote many hours to their Conference work, they normally are not asked to conduct primary research. Government members, however, provide assistance to Conference consultants by making available information, either from their files or by facilitating interviews. On only two occasions has a then-member served as a research consultant on a project. In one case a law school dean who had been a frequent consultant to the Conference prior to his becoming a member, was asked to serve as a paid consultant at his usual rate. In another case a member, who was an attorney in private practice, volunteered to undertake a research project. He did so as a *pro bono* matter, *i.e.*, without compensation, and the project did eventuate in a recommendation.

Question 8. How many detailees from other federal agencies does the Conference have on staff? Can you provide a detailed listing of the detailees identifying which agencies they are from, the time period they were detailed to the Conference and the responsibilities they carried out. Please provide a similar listing for FY88.

Answer. There is currently one non-reimbursable detailee to the Conference from the Department of Justice (DOJ). Wallace Warfield began a detail as "Distinguished Visiting Fellow" on January 11, 1988 and will remain at the Conference through December 31, 1989. Immediately prior to coming to the Conference, Mr. Warfield was Acting Administrator of the Community Relations Service in DOJ. He was provided to the Conference to promote and advise on alternative means of dispute resolution (ADR) in the public and private sectors. He develops ADR training programs, participates in training at agencies throughout the government, is assisting in the development of an ADR neutrals' roster for agency use and reference, and is helping Conference staff review and comment on ADR legislation. The Conference's Executive Director was detailed from the Nuclear Regulatory Commission on a reimbursable basis during a portion of FY-88 until he was added as a permanent employee in FY-89. There were no other detailees.

Question 9. The Conference held a reception honoring Justice Kennedy in December of 1988. What was the cost of this reception and were appropriated funds used to cover its costs?

Answer. The cost associated with the reception honoring Justice Kennedy was $13,378. The Conference members hosted this event from their personal funds for themselves and their guests as they have traditionally done for similar events at each semi-annual plenary session over the past 15 years. No appropriated funds were used. It is our understanding that the use of appropriated funds to pay for such an event would be illegal.

Question 10. Your enabling legislation directs the Administrative Conference to study the administrative procedures of the executive agencies but specifically excludes matters of substantive policy from the scope of the Conference's review. Yet, I Note that a number of studies that you have pursued in the past or intend to pursue in the future seem to be more of a "Policy" nature e.g., federal protection of private sector whistleblowers, use fees, deferred taxation for the conflicts of interest divestitures, the Privacy Act. The Export Administration Act and a review of anti-dumping and countervailing duties.

Why do your present and past agendas include so many policy issues?

Answer. It is understandable how the title of some Conference studies might appear to be substantive or of a policy nature. This is not the case, however. A fair reading of Conference recommendations will make clear that their focus is on administrative procedure improvements in the context of emerging policy areas of importance to the national agenda. In 1915, we would have studied procedural issues in the child labor laws; and in 1936, we would have studied procedural issues in securities regulation. In the 1970's we studied procedures of the IRS in tax collection (at Congress's request). Today we study procedural issues of whistleblower protection legislation, the Privacy Act, user fees, immigration law and the enforcement of government ethics laws. Before Congress passed the Magnuson-Moss Warranty Act bringing warranties under the aegis of the Federal Trade Commission there was absolutely no reason for the Administrative Conference to study the procedures used by the FTC in dealing with its warranty jurisdiction. Once Congress chooses to regulate a substantive "policy" area and sets up procedures to do so the Conference is authorized, and, indeed; it would be false to its mission if it failed to review this area. As Congress has chosen to regulate more and more areas of society increasing the reach of the "administrative state", so too does it enlarge the area where the Conference can review procedural problems. It is Congress that enlarges the canvass upon which the Conference works.

The Administrative Conference Act authorizes the Conference to "study the efficiency, adequacy, and fairness of the administrative procedure used by administrative agencies in carrying out administrative programs. . . ." 5 U.S.C. §574. The Act also specifies that:

> "administrative procedure" means procedure used in carrying out an administrative program and is to be broadly construed to include any aspect of agency organization, procedure, or management which may affect the equitable consideration of public and private interests, the fairness of agency decision, the speed of agency action, and the relationship of operating methods to later judicial review, but does not include the scope of agency responsibility as established by law or matters of substantive policy committed by law to agency discretion. (emphasis added)

5 U.S.C. §572(3).

The Conference is continually mindful of the substance/procedure distinction. About a year ago, Chairman Breger asked for an up-to-date memorandum on the history of this issue and the parameters of Conference authority, which is attached as Attachment B.

The question cites a number of past and future research topics. In each of the instances cited, the Conference has confined or will confine its attention to the organizational, procedural, or managerial aspects of the problem in conformity with its statutory charter. Each topic is addressed in turn:

(a) Federal Protection of Private Sector Whistleblowers. The Conference studied the existing patchwork of statutes that currently provide protections to workers in various industries and highlighted the lack of procedural uniformity that exists among them. The Conference's Recommendation 87-2 addressed the need for procedural uniformity in those statutes and urged legislative action to accomplish that. It is limited to procedural matters such as where agency complaints are lodged, the time period in which complaints can be lodged and the type of worker covered. Indeed, the recommendation explicitly withheld comment on the pros and cons of whistleblower protection, merely urging Congress to consider whether, as a policy matter, non-covered workers in various regulated industries should or should not be covered.

(b) Procedural Issues in the Implementation of User Fees. In the preamble to Recommendation 87-4 the Conference stated:

> "The decision to institute a user fee for a particular service or good is a policy decision for Congress and the Executive Branch to determine, and the Conference does not address this subject. Nevertheless, when Congress or an agency establishes a user fee, that action should be based upon general principles that guide the setting and implementation of fees. The Conference, therefore, in this recommendation seeks to provide a set of such basic principles."

This project also resulted in a very comprehensive data collection on the government's user fee efforts, as well as a legal analysis. It was funded by small contributions from eight different agencies, all of which presumably were facing procedural and implementation difficulties with user fee programs.

(c) Deferred Taxation for Conflict of Interest Divestitures. This project was designed to address -- and propose a remedy -- for disincentives to public service and frequent recusals of individuals in government positions which compromise the effective functioning of the governmental process. Individuals appointed to government positions or who change positions within government -- both Presidential appointees and career civil servants -- are sometimes required to divest themselves of property to satisfy conflict-of-interest requirements, such as the prohibition in 18 U.S.C. § 208 on participation in matters affecting one's financial interests. Under current law, such divestiture will often result in significant financial losses in the form of taxation of the gains realized as a result of the forced divestiture. Consequently, some qualified candidates do not accept government positions when they are offered. Where divestiture is not required, individuals serving in government are from time to time nevertheless required to recuse themselves from participation in a particular matter because their participation may affect their financial holdings. In the case of a recusal, the public is deprived of the participation of the individual selected to make the decision. In an executive department, a subordinate official can ordinarily substitute for the decision maker. But at multi-member agencies, decisions must as a consequence be made by less than the full complement of those chosen to render a collegial decision. In rare instances, a recusal can deprive the agency of its quorum and, hence, its ability to act at all. The Conference believed that the disincentive to public service and the frequent recusals of individuals in government positions compromised the effective functioning of the governmental process. Better procedures should be available.

As a remedy, the Conference proposed that Congress amend the tax laws to permit individuals who are requested or ordered by an appropriate authority to divest themselves of property to avoid actual or potential conflicts of interest to sell their property and place the proceeds in a neutral investment and defer the taxation of gains. Taxation would not be eliminated by the proposal but simply postponed until the individual ultimately disposes of the proceeds of a reinvestment vehicle. Recent editorials in the New York Times and Wall Street Journal have endorsed the Conference's proposal (see Attachment C) and the President's Commission on Federal Ethics Law Reform, established on January 25, 1989, has adopted the proposal, relying heavily upon the Conference's work.

The Commission concluded:

> In its deliberations, the Commission did not focus on any alternatives other than whether current law should be retained or the ACUS recommendation endorsed. The choice between retention of current law and endorsement of the ACUS recommendation does not present a close question -- the Commission views enactment of the ACUS proposal as long overdue. To Serve with Honor: Report of the President's Commission on Federal Ethics Law Reform 27 (March 1989).

(d) The Privacy Act. This topic is included on the Conference's proposed project listing because it clearly involves agency operations and legal questions that have arisen under a government-wide procedural statute. The codifiers of the 1974 Act acknowledged as much when they incorporated it as part of the Administrative Procedure Act, as Section 552a of Title 5. The Conference has consistently considered that one of its principal functions is to oversee agency implementation of government-wide procedural statutes such as the Privacy Act, APA, FOIA, Sunshine Act and the others included in the Federal Administrative Procedure Sourcebook. While the scope of this project requires further refinement, it will be confined to clearly procedural issues.

(e) Export Administration Act and A Review of Anti-Dumping and Countervailing Duties. These two international-trade-related projects are included on the Conference's proposed project listing because they present important procedural issues. Under both statutes, decisions must be made by the Commerce Department and/or the International Trade Commission. The Conference proposes only to study process questions concerning the fairness and efficiency of how those decisions are made and, perhaps, the availability of judicial review of those decisions. No attempt will be made to study or make recommendations on the substantive criteria used by those agencies.

In sum, while it is usually important for the Conference consultant and members to understand the substantive issues involved in the programs under study, the Conference takes great care to limit its recommendations to administrative procedure.

Question 11. What percentage of your studies have been solicited from an outside source (congress or an executive agency)? What percentage of your studies are self-initiated? Who determines which studies will be conducted? Who reviews those decisions? Have you ever turned down a request for a study? If so, was it because of resource limitations or because the subject matter was outside of the Conference's purview?

Answer. This question contains a number of parts.

(a) Of the approximately 30 on-going research projects listed in Appendix C to the testimony, all but seven are self-initiated. Thus 23% were solicited by an outside source and 77% were self-initiated.

(b) The Chairman of the Conference has the statutory authority to determine the Conference's research agenda, although he may be directed by the Assembly or the Council to undertake particular studies, 5 U.S.C. § 575(c). In practice, the Chairman, upon consultation with the Council, Committee Chairs, and the Research Director, determines the research agenda for the Conference.

(c) The Chairman regularly notifies the Council and members about possible research topics. Formal review by the Council is used only for particularly significant studies such as the Domestic Policy Council's request that the Conference undertake a study of the federal employee personnel appeals system. In that instance, the Council formally concurred. There has never been any occasion for judicial review or other review of those decisions.

(d) The Chairman and Research Director receive many suggestions for studies from many sources. Obviously, a large percentage of these suggestions are ultimately turned down. Requests from Congress or executive agencies naturally receive serious consideration although many informal suggestions from these sources cannot be followed up formally.

Sometimes more formal outside requests have been turned down. For example, Federal Trade Commission (FTC) officials requested that the Conference study its regulation of dealer-consumer disputes with regard to auto warranties. While this subject did relate to the alternative dispute resolution initiatives of the Conference and was of importance to the FTC and consumers, the FTC could not afford to transfer funds. The Chairman reluctantly decided not to undertake the project. Similarly, many agency officials have requested the Conference to update its publications: *Guide to Federal Agency Rulemaking* (1983), *Directory of Administrative Hearing Facilities* (1984), and *Sourcebook on Federal Administrative Procedure* (1985). Appropriated funds were devoted to updating the Conference's rulemaking guide last year, but other updates have been deferred indefinitely.

Question 12. The background material that you have provided this subcommittee indicates that the Administrative Conference has been modeled after the Judicial Conference of U.S. Courts which is charged with improving judicial administration. In the material you submitted you indicate that in FY89 you concentrated your limited resources on 9 "Thematic Areas". One of the 9 areas is "Judicial Review".

Don't you find that this subject matter would overlap with the mission of the Conference upon which you have been modeled? Why couldn't this line of studies be conducted by the Judicial Conference?

Answer. While there is some *potential* for overlap between the Judicial Conference and the Administrative Conference in the study of judicial review issues, there is little actual overlap in practice. The judicial review issues which are central to the federal agencies are not necessarily a high priority from a judicial administration perspective.

The Judicial Conference addresses improvements in court management, including methods to promote uniformity of internal management procedures and the expeditious conduct of court business. It carries on a continuous study of the effect of the general rules of court practice and procedure. But it must evaluate such disparate matters as judicial ethics, administration of the magistrates system, intercircuit assignments, hourly compensation rates in death penalty habeas corpus cases under the Criminal Justice Act, problems of jury selection, sentencing guidelines, and the like. So judicial review of government agency decisions is necessarily only a small part of its mandate. The Administrative Conference's focus, on the other hand, is on the judicial review standards and procedures contained in the Administrative Procedure Act. The Conference's statutory responsibility is to study "the efficiency, adequacy, and fairness of the administrative procedure used by administrative agencies, in carrying out administrative programs." Concerning judicial review, the Conference concentrates on an examination of "the relationship of operating methods to later judicial review." See 5 U.S.C. § 572(3). Indeed, a recognition of the difference in perspective between the courts and the agencies was one element that led the judiciary itself to recommend establishment of a permanent Administrative Conference.

Quite often judicial review problems affect litigants, including federal agencies, much more than they do the internal management of the courts. While the Judicial Conference could conceivably deal with such issues, they may not be brought to its attention or affect the courts' business in a way sufficiently urgent to engage the resources of the Judicial Conference. In addition, correction of such problems may require legislative or administrative action.

The Conference's nearly decade-long effort to obtain so-called "race to the courthouse" legislation to remedy inequities arising out of the venue provisions of many regulatory statutes is a recent example. Because the venue provisions historically provided that the court in which the first judicial review petition was filed obtained jurisdiction over all appeals if multiple petitions for appellate review of an agency's action were filed in two or more circuit courts, "races" to be first to the courthouse became a frequent feature of governmental appellate litigation. The system was unfair, disadvantaging parties without the financial resources to conduct elaborate races, and wasteful of agency, private and, at times, court, resources. Yet no single agency, litigant, or court was affected more than occasionally. So, while the aggregate costs were substantial, no one entity had an incentive to champion change. The Administrative Conference nevetheless recognized the substantial inefficiency and unfairness in the existing scheme of judicial review, engaged a consultant to study the problem and recommend a solution, participated in the drafting of remedial legislation, and campaigned for statutory change until the problem was corrected by the 100th Congress.

Moreover, judicial review matters can be of far greater concern to agency administrators than they are to the courts that actually undertake the review. The Administrative Conference's recommendation concerning the coordination of public and private enforcement of environmental laws (Recommendation 85-3) is an example. EPA has statutory authority to enforce the nation's environmental laws in court and private parties may seek enforcement through EPA. But Congress has incorporated into various environmental statutes, such as the Clean Air Act, provisions authorizing private parties to bring their own enforcement actions in federal court. Notwithstanding the acknowledged different enforcement perspectives and goals of governmental and private plaintiffs, inconsistencies in case selection or penalty policy may create actual or perceived unfairness to regulated entities as similarly situated parties receive varying treatment. Uncertainties about the likelihood or outcome of enforcement actions may increase litigation and decrease voluntary compliance. Lack of coordination may also make it difficult for EPA and cooperating state agencies to deploy their limited enforcement resources in the most efficient and effective manner. The Administrative Conference urged EPA, where feasible, to enunciate its views concerning enforcement criteria, to offer the public an opportunity to comment on statements of policy regarding calculation of penalties, and to request information from private parties concerning settlement agreements and judicial decrees in any court action relating to an alleged violation in which EPA is not a party.

Finally, a transfer of research function to the Judicial Conference, or its research arm, the Federal Judicial Center, would not necessarily effect any significant saving to the federal fisc. Clearly, however, such a transfer would compromise the presentation of those insights offered by the federal agencies through the unique deliberative process at the Administrative Conference. The inability to obtain the contribution of all federal agencies debating under one tent would adversely affect both the quality of the ultimate research effort and the likelihood that changes would be implemented.

Question 13. Another one of your top 9 "Thematic areas" is the area of "Government Ethics".

Are you aware that the Office of Government Ethics' mandate includes: The Development of Model Regulations on standards of conduct, the responsibility to provide training and education and the responsibility to provide guidance and interpreation of matters of government ethics?

Are you also aware that the President in a January 25, 1989 executive order established an advisory committee on government reform?

What do you think that the Administrative Conference can add to the area of government ethics that neither the Office of Government Ethics or the Advisory Committee on Government Ethics can provide?

Answer. Yes, we are aware of the mandate of the Office of Government Ethics (OGE) and the President's establishment of the Commission on Federal Ethics Law Reform. We have actively coordinated our efforts with both organizations. In fact, the Conference testified in connection with the passage of the Act which provides OGE expanded resources and authority. (The Conference supported OGE's reauthorization.) The Chairman and his staff were also regularly consulted by White House personnel before issuance of the Executive Order and have been a substantial resource to the President's Commission since its establishment. As you know, the President's Commission cited ACUS scholarship and expressly adopted one ACUS proposal in its final report.

Issues of government ethics have historically been viewed as within the Conference's purview. Indeed, the Temporary Conference set up by President Kennedy in 1962 expressly recommended that a permanent conference establish an "ethics committee" to render opinions on ethics issues, and one of the original standing committees of the Administrative Conference -- the Committee on Personnel -- was specifically directed as part of its mandate to look into ethics matters. A decade ago, shortly after the passage of the Ethics in Government Act, the Conference examined the so-called "revolving door" issue,[1] and it has also recommended rules concerning recusal of agency rulemaking officials.[2] Of course, as in other areas of administrative procedure, the Conference attempts to limit its activities to areas that are important and are not receiving the attention they deserve. This was the case with the recent ethics initiatives the Conference has undertaken. Certainly, the concern expressed by both branches of Congress supports this view.

The Conference ethics initiatives have been totally consistent with these principles. While it is true that the Office of Government Ethics has statutory responsibility to evaluate federal ethics laws, it has not been able to do so in its ten-year life. The reasons for the Office's inability to fulfill this role are summarized in an October 1988 General Accounting Office report to the Director of OGE --

> In our June 17 meeting, you indicated that OGE has not had the staff resources to work with Justice in evaluating the conflict of interest statutes and, if necessary, recommending amendments to the statutes, as envisioned in the Ethics Act.[3]

GAO concluded:

> [A] comprehensive evaluation of the statutes has not been done in more than 25 years and is required by the Ethics Act of 1978. OGE has not indicated when it will work with Justice to evaluate the statutes.[4]

---

[1]ACUS Recommendation 79-7, "Appropriate Restrictions on Participation by a Former Agency Official in Matters Involving the Agency," 1 CFR § 305.79-7.

[2]ACUS Recommendation 80-4, "Decisional Officials' Participation in Rulemaking Proceedings," 1 CFR § 305.80-4.

[3]U.S. General Accounting Office, Report to the Director, Office of Government Ethics, Office of Personnel Management, Ethics: Office of Government Ethics' Policy Development Role 4 (GAO/GGD-89-3).

[4]Id. at 6.

The Office of Government Ethics was reauthorized in the 100th Congress, however, and its resources will be substantially increased in future years.[5] As OGE undertakes a greater effort in evaluating and recommending changes in federal ethics laws, the Conference will not undertake any parallel or duplicate effort. In the fall of 1987, however, the need for a review of the statutes was obvious, and OGE had neither the resources nor the plans to do so.

Likewise, when the Conference's Special Committee on Ethics in Government was established in the fall of 1987, the President's Commission on Federal Ethics Law Reform did not exist. Had there been such a commission, our Special Committee on Ethics in Government may not have been needed.

While OGE's new resources and the appointment of the President's Commission will inevitably change the nature of future Conference ethics initiatives, the Conference does provide an independence, breadth and diversity of view that neither OGE nor the President's Commission provides.[6] The value of the Conference in the government ethics area derives from its process of studying problems of procedure in a particular area, adding the perspectives of affected agencies, scholars, practitioners, and other experts, who come together in a joint effort to give the government the best advice on good procedure.

The most recent projects and recommendations in this area are illustrative. In June 1988 the Conference adopted a recommendation calling for establishment of a code of ethical conduct for presidential transition workers. The genesis of this recommendation was a "working conference" sponsored by the Conference on March 1, 1988, which was a meeting of approximately 40 government officials (including Senator Strom Thurmond and Representatives Barney Frank and Benjamin Gilman), academics, and private individuals with past experience involving presidential transitions and the ethics laws. The Office of Government Ethics was invited to participate, and the Director of the Office attended. The subject of transition personnel standards of conduct was discussed.

At about the same time, the Senate Committee on Governmental Affairs also expressed interest in this subject during consideration of Presidential Transition Act amendments, and the Senate report noted the Conference's willingness to address these issues (S. Rep. No. 100-317, 100th Cong., 2d Sess.) In the House of Representatives, Congressman Gilman specifically called for greater Administrative Conference involvement in this issue in a floor statement on the Transition Act amendments. The Conference's special committee subsequently reviewed this matter and developed proposed standards, again with the participation of the Office of Government Ethics, and a recommendation was adopted at the June 1988 Plenary Session. The Conference's proposed code of ethical conduct was the model for Transition Standards of Conduct issued by President-elect Bush and incorporated in President Reagan's memorandum on this subject to heads of departments and agencies. Had the Administrative Conference not taken the initiative in March to look at this issue, there likely would not have been comprehensive standards of conduct in place during the 1988-89 transition.

A second valuable Conference recommendation also was adopted in June 1988. Recommendation 88-4 revived and fleshed out a proposal -- made seven or eight years earlier by the Office of Government Ethics and others -- that presidential

---

[5]S. 2344, Act to Reauthorize the Office of Government Ethics, 100th Cong., 2d Sess. (1988). (The Conference testified in support of this legislation.)

[6]The Conference has not duplicated OGE's role in this area. The study of process problems in the ethics area is akin to studies and recommendations for improving the Freedom of Information Act (see, e.g., ACUS Recommendation 71-2, "Principles and Guidelines for Implementation of the Freedom of Information Act, 1 CFR § 305.71.2) or the Federal Advisory Committee Act (see ACUS Recommendation 80-3, "Interpretation and Implementation of the Federal Advisory Committee Act, 1 CFR § 305.80-3) where we have not displaced the Department of Justice and the General Services Administration, respectively, who have major responsibilities for coordinating and implementing those Acts.

appointees who are required by an independent authority to divest assets or property to accept an appointment be allowed to "roll over" their assets into neutral investments without realizing taxable gains. This project is discussed in more detail in our answer to question 10. Importantly, the Conference was able to develop this proposal and give it visibility at the right time.

The Conference's committee is currently considering two other government ethics studies, both of which were initiated in mid-1988 and for which consultant reports have been completed. These are studies of the Ethics in Government Act's public financial disclosure requirements and appropriate conflict-of-interest rules for federal advisory committees (the latter study is discussed fully in our answer to question 14). The President's Commission, created in January, has addressed both of these topics. In both instances, however, our studies began well before the President's Commission existed and with no information indicating that the Office of Government Ethics had any plans to address them. Because the Conference's special committee represents a broader spectrum of interests than the President's Commission and because its work on these studies is nearly complete, it seems logical that the committee's deliberations will add something of value to consideration of these issues and it would be wasteful to abandon the projects mid-course.

The Conference's consideration of the Ethics in Government Act's financial reporting requirements will be based on a thorough analysis of the statute by Professor Thomas D. Morgan, professor of law at Emory University School of Law and President-elect of the Association of American Law Schools. His study and any committee proposal will be widely circulated among agencies and the public for comment, and the committee will consider these comments when it takes final action (likely in late April). A final committee proposal will then be considered by the entire membership in June. The same process will be followed with respect to our study of conflict-of-interest rules for federal advisory committees, which is addressed more fully in the answer to the next question.

The question of redundancy is raised on occasion with respect to particular Conference areas of inquiry. Why should the Conference, for example, look into the procedural components of OSHA rulemaking when OSHA is there to do it? The question could, of course, be similarly asked, why create the Presidential Commission on Federal Ethics Law Reform if OGE could have taken on the task? In the abstract one could similarly easily argue that OGE did not add anything to the Office of Legal Counsel, Department of Justice (which undertook some of its activities before the creation of OGE). The answer, we believe, is not the abstract definition of mission objectives, but the quality of the work done, the need to place a special and independent focus on a subject, and the wisdom and practical knowledge that is gained by obtaining consensus among experts drawn from difficult backgrounds. Abstract philosophy aside, Congress frequently establishes mechanisms within the executive branch to provide different perspectives on a problem. In the case of the Administrative Conference, that perspective is widely believed to be diverse, expert, and objective.

The Congressional and public support for our ethics studies to date make clear the practical value of the Conference's effort.

Question 14. In some of your material you indicated that, in 1989, you reviewed the applications of ethics law to federal advisory committees. Yet, the Office of Government Ethics has informed us that there is no question regarding the applicability of federal ethics laws to federal advisory committees. According to the Office of Government Ethics, if an Advisory committee is established to serve a federal function, then the employees are governed by the ethics laws that pertain to "Special Government Employees". The Office of Government Ethics maintains that the law is clear in this area. The only clarification that is necessary is the intended function of the Advisory Committee at its inception.

Can you explain to me why this issue was worthy of the limited resources of the Administrative Conference when the experts in this area find no co' fusion?

Answer. The Conference's examination of conflict-of-interest questions arising in connection with federal advisory committees reflects an increasing recognition that there are genuine problems in this area which require review and resolution. In FY-88 the Senate Governmental Affairs Committee held two oversight hearings on FACA and ethics matters.[7] In FY 1989, two additional hearings have been held to date.[8] Among the Senators who specifically pointed out problems with FACA and federal ethics laws at these hearings were Senators Glenn, Levin, Pryor and Roth. Special concern about the applicability and implementation of ethics laws was expressed as to how such laws related to the DOD and Strategic Defense Initiative advisory committees. Many commentators on the Department of Defense's procurement scandal have pointed to advisory committees as a source of abuse.

Early this year Senator Glenn introduced S. 444, a bill to amend the Federal Advisory Committee Act, and will hold hearings on that bill on March 15.

One of the key areas to be addressed at those hearings is, in Senator Glenn's words, "the need to ensure that members of advisory committees do not have conflicts of interest." 135 Cong. Rec. S. 1670 (Feb. 23, 1989). As Senator Levin pointed out, a key change that the bill would make in FACA would be to strengthen its provisions on ethics." 135 Cong. Rec. at S.1676. As a consequence, the proposed legislation addresses the relationship between the Federal Advisory Committee Act and federal conflict of interest requirements.

Last year, the General Services Administration, through its committee management secretariat, held a conference covering ethics laws issues under FACA which also highlighted a variety of ambiguities in the application of ethics laws to the FACA statute. (Another such conference is scheduled in FY-89.) It was on the basis of these public expressions of concern as well as our own independent analysis that we determined this project was worthy of study. Moreover, we were able to secure an expert consultant to study this subject at a reasonable price making such a study an efficient use of our limited resources.

The law and practice regarding conflict of interest requirements for federal advisory committee members have developed from the interaction of three statutory schemes: the Federal Advisory Committee Act, the conflict of interest laws, and the federal personnel laws. One of these statutory schemes was drafted to deal specifically with conflict of interest standards for government advisers. As explained in the enclosed draft report prepared for the Conference by Richard Berg, this interaction has resulted in confusion about legal requirements and anomalies and irrationalities in practice. (Attachment D)

A 1982 memorandum from then-Director of the Office of Government Ethics, J. Jackson Walter, to heads of executive departments and agencies (hereinafter the "Walter Memorandum") attempted to meld a coherent analytical framework from the three statutory schemes. In determining whether the conflict of interest laws applied, the Walter Memorandum distinguished between those advisers who were selected because of their individual qualifications, and were thus deemed to be special government employees (SGEs), and those who instead were selected as representatives of nongovernmental groups or organizations. Only the former were subject to the conflict of interest laws. The memorandum thus provided some guidance for determining whether or not an advisory committee member is a SGE. If an advisory committee member is properly classified as a SGE, then the Office of

---

[7]Federal Advisory Committee Act and the President's AIDS Commission, S. Hrg. 100-538, 100th Cong., 1st Sess. (Dec. 3, 1987); Department of Defense/Strategic Defense Initiative Organization Compliance with the Federal Advisory Committee Act, S. Hrg. 100-681, 100th Cong., 2d Sess. (April 19, 1988).

[8]Federal Advisory Committee Amendments Act of 1988, 100th Cong., 2d Sess. (Oct. 5, 1988); Federal Advisory Committee Amendments Act of 1989 [expected title], 101st Cong., 1st Sess. (March 15, 1989).

Government Ethics is quite correct in stating that the applicable conflict of interest requirements are clear. But that is only the beginning of the inquiry.

As the Conference's draft report explains, the determination of a committee member's status as a SGE or one of four other possible categories remains a difficult one (see Berg Report at pp. 21-25). Further, the Conference's research documents disparate agency practice in classifying advisory committee members as SGEs or representatives of groups or interests. Agencies tend to place almost all of their non-government advisory committee members in the same category (Berg Report, p. 26), and some agencies have tended to adopt a policy of considering members as interest group representatives, rather than SGEs, at least in all doubtful cases (Berg Report, p. 25). This is significant because, as the report explains, "[t]he first category of advisory committee members are SGE's and are subject to the conflict of interest laws. All the other categories of members are not SGE's and are not subject to the conflict of interest laws."

The Conference is reviewing the reasons for this approach by federal agencies. Are agency classifications of advisory committee members being made simply for reasons of administrative convenience? If so, undue reliance on the "representative" status would mean that many advisory committee members are subject to no conflict of interest requirements. Is SGE status accompanied by undesirable effects on the use or make-up of advisory committees?

In testifying before the Senate Committee on Governmental Affairs in December 1987, with respect to use of advisory committees in negotiated rulemaking, Mr. Philip J. Harter stated:

> The conflict of interest law applicable to advisory committees is extraordinarily complex and sometimes contradictory; both the terms of the conflict of interest provisions of the criminal code and the confusion over their applicability inhibit the achievement of the critically important balance of membership and the securing of important views. . . . .[9]

He also observed:

> Some agencies assert that the members of a committee are serving in their individual capacities, and hence not as representatives, even though the members are employed full time by another organization. Thus, for example, someone who is employed full time for General Motors but who is serving on such a committee within the sphere of his expertise, would be regarded as a special government employee. Not only is that a highly anomalous result, the potential liability it may impose on such an individual may cause him to decline the appointment. Thus, the conflict of interest law may mean it is more difficult for agencies to secure the talent and balance of perspectives they need.[10]

While its deliberations are still at an early stage, the Conference's Special Committee on Ethics in Government is beginning to address this need for rationalizing the conflict of interest treatment of advisory committee members. We hope that the Committee will have a recommendation ready for consideration at the June 1989 plenary. The interest shown so far by the staff of various agencies

---

[9](emphasis added) S. Hrg. 100-538 (Dec. 3, 1987) at 266.

[10]Id., 275.

reinforces the belief expressed by those members of the Senate Governmental Operations Committee who felt that the law in this area was ambiguous at best. Whatever the result, we feel the decision to study this subject was appropriate and remains appropriate. Further, it is our understanding that the Office of Government Ethics considers the Berg report to be a useful addition to the literature in this complex area.

Questions Submitted by Senator Domenici

Question 1. You mention in your prepared testimony that the Conference works informally with agencies to improve their administrative procedures and makes recommendations to the courts through the Judicial Conference. During Fiscal Year 1988, how many agencies did you work with informally and what improvements were made in their administrative procedures as a result of these informal efforts? How many recommendations were made to the courts through the Judicial Conference and were these recommendations implemented?

I.

Answer. The Conference's informal work with agencies ranges from answering telephone inquiries, to more significant efforts to assist them in improving their procedures. At the most informal level (*e.g.*, answering a question or supplying information to an agency lawyer in the middle of a problem or proceeding), systematic records are not kept (and it would be inefficient to do so). Therefore, there is no documented information concerning the advice or information supplied, however, anecdotal examples of such informal assistance can be supplied. Some examples from FY-88 include staff responses to calls regarding the implementation of the Government in the Sunshine Act, the Equal Access to Justice Act, a request from the General Accounting Office regarding distinctions in administrative law between cabinet departments and independent agencies within the executive branch, an inquiry from the Department of Labor regarding the use of the Federal Rules of Evidence and the establishment of deadlines in administrative proceedings, and a question from the Library of Congress regarding independent agency use of staff appeal boards. This informal contact with agencies is a routine part of the work of the professional staff in the Office of the Chairman.

In addition to these types of contacts, in fiscal year 1988 the Conference had more extensive interaction with a number of agencies. These are summarized as follows:

- The Chairman participated in the Social Security Administration's Attorney Fee Policy invitational symposium.

- Conference staff provided a three-day training program and worked with members of the Armed Services Board of Contract Appeals on use of alternative means of dispute resolution (ADR) in contract disputes; this contact has resulted in Board preparation of a draft notice to counsel describing and encouraging the use of selected ADR devices.

- Conference staff provided informal oral and written advice on Foreign Trade Zone Board procedures to the General Accounting Office; the advice was incorporated in the final GAO Report (GAO/NSIAD-89-85).

- Beginning in August 1988, the Conference staff advised and furnished written materials to the Department of Agriculture (and to its Animal and Plant Health Inspection Service (APHIS)) on how to conduct a negotiated rulemaking proceeding; APHIS subsequently successfully conducted its first such proceeding and a final rule will be published shortly.

- In September 1988 the Conference considered, but decided to study further, the question of non-acquiescence by federal agencies in the rulings of courts of appeals. The draft report was circulated widely and produced much comment from Social Security Administration (SSA) claimants. In November the SSA published a proposed new rule on application of circuit court law to Social Security claims (53 Fed. Reg. 46628, November 18, 1988. The proposed rule incorporated many of the procedural safeguards recommended in the Conference's report.

■ Conference staff advised and reviewed the Federal Acquisition Institute's (General Services Administration) revised negotiation training guidance for government contracting officers.

■ Conference staff advised the Deputy Under Secretary of Labor on ways agencies obtain more administrative law judges.

■ Conference staff worked closely with the Office of Privatization (OMB) on establishment of an experimental program in arbitration of government contract claims; such a program was included in the President's FY 1990 budget.

■ Conference staff submitted written comments (Apr. 25, 1988) on the Federal Deposit Insurance Corporation's proposed rules of practice and procedure.

■ Conference staff was asked by the Federal Retirement Thrift Investment Board, a new agency, to comment on the Board's proposed regulations to implement the Government in the Sunshine Act; written comments were submitted to the Board.

■ Conference staff worked with the Environmental Protection Agency (EPA) and other agencies to create a roster of mediators and neutral advisors to assist in the resolution of federal disputes; to be completed in 1989, the roster will enable agencies to expeditiously locate and retain mediators and neutrals across the country.

■ At the specific direction of Congress, Conference staff assisted the Nuclear Regulatory Commission (NRC) in implementing section 19 of the Price-Anderson Amendments of 1988, Pub. L. 100-408, by developing a list of potential convenors for a negotiated rulemaking involving radio-pharmaceutical licensees; the NRC selected a convenor from the list and negotiations are underway.

■ Conference staff provided advice to the Department of Transportation, Office of General Counsel, on developing licensing rules applicable to the Office of Commercial Space Ventures.

■ Conference staff prepared a model notice of proposed rulemaking for agencies to use in promulgating rules on confidentiality of mediator communications in settlement negotiations; the EPA's Office of Enforcement and Compliance Monitoring plans to use the model rule as its proposed rule.

■ Following a suggestion from the Conference, the Department of Transportation's Board of Contract Appeals amended its procedural rules to provide for use of minitrials, settlement judges, and other ADR methods. 53 Fed. Reg. 34106 (August 26, 1988)

II.

The Conference's statutory mandate gives the Administrative Conference the authority to make recommendations to the Judicial Conference of the United States on matters relating to the judicial review of agency action. However, because the Conference's primary focus is on administrative procedure, the Conference does not frequently address recommendations to the Judicial Conference[1]. It should be noted, though, that both the Judicial Conference and the Administrative Office of the U.S. Courts regularly participate in Conference activities through liaison arrangements.

In FY 1988 the Conference developed one formal recommendation to the Judicial Conference of the United States. The Conference's Committee on Judicial Review engaged in the development of a recommendation concerning the need to

[1]For examples of recommendations addressed to the Judicial Conference, see ACUS Recommendation 74-4, " pre-enforcement Judicial Review of Rules of General Applicability," 1 CFR § 305.74-4; ACUS Recommendation 80-5, "Eliminating or Simplifying the 'Race to the Courthouse' in Appeals from Agency Action," 1 CFR § 305.80-5.

expedite the handling of lawsuits that allege an agency's refusal to act. Recommendation 88-6, "Judicial Review of Preliminary Challenges to Agency Action," 53 Fed. Reg. 39 585 (1988) was directed both to Congress and to reviewing courts. While this recommendation was under development, the Committee on Judicial Review achieved a significant commitment by the U.S. Court of Appeals for the District of Columbia Circuit which issued an order changing its internal rules of practice to ensure expedited handling of such cases. This is especially important since the D.C. Circuit handles most of these lawsuits. Thereafter, the Conference transmitted the recommendation to the Judicial Conference through its liaison representatives so that other courts may consider whether similar action would be useful in their respective jurisdictions. (Letters to Judges Stephen G. Breyer and Kenneth W. Starr from Chairman Breger and notices of the adoption of a general order in the D.C. Circuit are provided in Attachment E.) Conference consideration of this matter is discussed more fully in Chairman Breger's testimony (at pages 18-19).

In addition, the Office of the Chairman submitted comments last May to the Judicial Panel on Multidistrict Litigation in response to a proposed revision of the panel's Rule of Procedure. The panel issued the proposal to implement Public Law 100-236, "race to the courthouse" legislation. As you know, that statute is based almost totally on Conference Recommendation 80-5. The comments were substantially incorporated into the panel's final version of its Rules of Procedure.

Question 2. How much is included in your fiscal year 1990 Request to cover the travel expenses of the Conference's Out-of-town members?

Answer. Approximately $38,000. This figure does not include travel expenses of consultants to do research, attend committee meetings to present their reports, or to attend the plenary session when their report is on the agenda. Consultant travel costs in FY-88 were $30,373 and staff travel in the Office of the Chairman was $12,322. Since the number of new research projects in FY-90 is projected to be sharply lower, the total projected travel costs to the Conference have been reduced $10,000 even though travel per trip in FY-90 is projected to be substantially higher than in FY-88. The FY-90 anticipated costs are $34,888 for plenary sessions (includes consultant travel to plenary session, but out-of-town members attending committee meetings is additional), $10,000 for staff travel, and $14,000 for consultant travel.

In theory, the Conference could make savings here by not appointing 'public members' from outside the beltway. We believe such a policy would be counter-productive as we are anxious to have input from persons involved in administrative procedure from all parts of the country. Up until now, therefore, as Chairman, I have eschewed cost-of-travel considerations in the membership selection process. Recent appointments to public membership have included members from Arizona, Utah, Texas, and New York. Future fiscal constraints on travel may require a reconsideration of this policy. Already the Conference found it necessary to postpone a special plenary session in February, 1989, because funds to pay travel costs were not available. This was done notwithstanding the interest of many organizations, including the AMA and the AARP, in an early plenary review of the recommendation in question.

Question 3. You indicate that you, as the Chairman, consult with your professional staff, and decide which topics to pursue based on suggestions from Conference members, agency officials, members of the academic community, members of Congress or Congressional committees, or others. Obviously, your resource limitations constrain your ability to pursue the number of topics you might otherwise select for review. How then do you establish priorities at this point in the process?

Answer. The Chairman has the authority to determine the Conference's research agenda although he may be directed by the Assembly or the Council to undertake particular studies, 5 U.S.C. § 575(c). In practice, the Chairman, upon consultation with the Council, Committee Chairs, and the Research Director, determines the research agenda for the Conference.

The Research Director maintains a list of potential research topics (see Attachment F). This list is widely circulated and draws comment from Conference members, agency officials, members of Congress, the private bar, and academics who are expert in relevant fields. Chairman Breger has established primary research themes such as alternative dispute resolution, procedural issues in financial services, procedural problems in government ethics and immigration procedures so that concentrated attention can be paid to the procedural aspects of these emerging areas of importance in administrative law. This allows a synergy to develop in that Conference studies can build on one another. Topics relating to these themes are informally given a higher priority.

Before choosing topics within a theme, the Chairman will often call together leading experts from inside and outside government to determine the most important areas to research. This was done in the immigration and financial services area and assisted in the development of the research agenda in both areas. A particularly noteworthy example of this consultative process in agenda-setting was the Seminar on Ethics in Government held April 1, 1988 where members of Congress, their staffs, public interest groups, former White House Counsel, House and Senate Counsel and other interested parties discussed the most important areas for research in government ethics. The topics studied by the Conference (including the study of FACA and conflict of interest issues) arose out of that consultation.

The workload of Conference committees is also considered. If the Committee on Adjudication, for example, has a light workload, an adjudication-related project will be given a higher priority. Furthermore, the Research Director maintains close ties with the research and academic community allowing him to match topics with potential research consultants. Obviously, flexibility must be allowed to allow late-breaking topics to be considered. In sum, based on the above factors, the Research Director proposes new projects to the Chairman who gives the go-ahead (within the budget constraints delineated by the Executive Director's monthly budget summaries).

Question 4. Once a topic is defined by you and your staff, what criteria do you use to select a consultant?

Answer. The Conference, as any other procurement agency, must be concerned with the twin ideals of high quality and low cost. The Research Director looks for persons with the requisite experience as well as demonstrated analytical ability to undertake the research required. Because objectivity and willingness to look at a problem without bias is a must, academic scholars are frequently selected as consultants, although practical experience is also an important qualification. Researchers with successful past projects with the Conference are obviously given strong consideration. But the need to seek out "new talent" is recognized and the Research Director attends the Association of American Law Schools' annual convention to meet new potential researchers. Of course, the Conference also is mindful of the need to recruit researchers from around the country and to seek out qualified women and minority group members for its consultant ranks.

As for cost-considerations, the Conference has been quite successful in holding the line on its research contract costs in recent years. By drawing on researchers from the academic ranks, the Conference is generally able to secure consultants at a rate that is far lower than that demanded normally by firms that have been set up to seek research contracts from government agencies. Because the Conference is

well thought of in the academic community and the administrative law bar, it is generally able to secure consultants at far below the "market" rate.

Question 5. You indicate that you give your consultants considerable latitude in the product they produce. How often is a consultant asked to undertake further work by one of your committees after it has reviewed the initial product? Is this additional work performed under the initial contract award amount? How often is a consultant's work not used after it has been reviewed by a committee?

Answer. When a consultant produces a first draft, the staff or the reviewing committee frequently requests additional work. Ordinarily, the consultant agrees to undertake this work, either as part of the task of revising the draft report or preparing the final report. Staff or committee review might determine that new areas of inquiry are needed to allow for better understanding of a problem. In the event the consultant believes that the new work goes beyond the scope of the original contract, additional funding may be sought. This requires a judgement call by the Research Director and occurs in fewer than 10% of the contracts.

Occasionally, the reviewing committee may consider a consultant's report and decide not to proceed with the drafting of a recommendation. This can happen even where the Committee is pleased with the research but determines that a recommendation to Congress, an agency or the Judicial Conference is not warranted. A recent example is a study done for the Committee on Covernmental Processes on the operations of the "discretionary function exemption" to the Federal Tort Claims Act. The Committee commended a report by Professor Cass and urged that it be published, but decided not to recommend legislative change at this time because the Committee concluded that appellate courts had been able to address the Act's ambiguity in a satisfactory manner. Naturally, there are also occasional circumstances where the Committee is less than pleased with a report. If the staff and consultant cannot work out an agreement for revision, the contract can be terminated.

Question 6. You note that one of the important functions of the Conference is to "campaign for reform." in your testimony, you indicate that you widely disseminate your research reports and alert all members of the senior executive service to your projects through publication of a newsletter. In additon, you sponsor formal and informal meetings and produce compilations and documents useful to agencies generally. What is the total amount of funding included in your Fiscal Year 1990 request for these efforts? Specifically, how much it included for publication of your newsletter; how much is included for meetings symposiums and seminars; and how much is included for the production and dissemination of documents?

Answer. Required publication of notices and recommendations in the Federal Register and annual CFR codification is projected to be $35,000. The Annual Report is projected at $6,000. Publication of the annual volume of Conference Recommendations and Reports is $12,000. Publication of materials for seminars, meetings, and symposiums including photography is projected to be $10,000. Reproduction of materials for plenary sessions and other small publications as part of the Conference's clearinghouse efforts is projected to be $35,000. The newsletter is budgeted at $18,000 for three issues. The newsletter has been reduced from four issues to three issues a year. The primary circulation is to senior federal officials and it is an important means of communicating Conference initiatives effectively to agency managers. Without the newsletter a substitute information mechanism would have to be developed.

Question 7. You indicate that the seminar you sponsored a few weeks ago on implementation of the Dispute Resolution Procedures of the U.S.-Canada Free Trade Agreement was undertaken in part with funds provided by the Department of

Commerce. What was the total cost of this program and what porton of these costs were covered by the Department of Commerce?

Answer. The Department of Commerce made an interagency transfer of $25,000 under the Economy Act for Conference activities associated with the alternative dispute resolution provisions of the U.S. - Canada Free Trade Agreement (FTA). To date, the Conference has obligated $19,500 on the FTA project. The consultant contract including projected travel is $10,000 of that amount. The direct costs of the FTA seminar for mailings, reproduction of material for participants, badges, registration, communications, transcripts, and transportation for committee members and invited participants was $9,500. The consultant still has activities to complete under the contract. Several committee meetings will be necessary to consider the consultant's work. The committee might propose a recommendation which would require additional activity. The $5,500 remaining in the Commerce Department transfer should be sufficient to cover the remaining direct costs of the FTA work. The transfer does not cover the costs of full-time Conference staff, miscellaneous costs which can not be easily identified with one activity, or overhead.

It should be underscored that not only the Department of Commerce, but USTR and ITC participated in the program which was attended by over 400 persons associated with the trade bar. The seminar focused only on administrative procedure, and did not consider substantive questions of the Free Trade Agreement. At first blush, Conference personnel questioned whether there were legitimate issues of administrative process in the international area when first approached by the Department of Commerce. On closer examination, it became readily apparent that the mediation and arbitration provisions in the U.S.-Canada Free Trade Agreement raised significant administrative process issues. A copy of the seminar schedule is provided at Attachment G.

Question 8. How much is included in your Fiscal Year 1990 request for your training efforts to educate public officials on the use of alternative methods of dispute resolution? Do the agencies recieving this training share all or a portion of these costs?

Answer. No funds are specifically identified for this purpose. Two professionals (one of whom is on a non-reimbursable detail from DOJ) devote time to this effort and a Conference research assistant (paralegal) who has substantial experience in the use of ombudsmen and other mediation techniques is also available to help agencies plan training programs. Agencies who have decided to provide extensive training for their personnel will either use an interagency transfer to provide the Conference adequate funds to retain trainers and develop materials or they will contract for the training directly after consulting with Conference personnel on an appropriate design. It might well be more efficient to have this and other training programs developed and available at the Conference, but no funds are available for this purpose.

Question 9. You indicate that the full-time resources of one of your professional staff members is devoted to informing congressional committees of Conference recommendations relevant to their agendas. How many congressional committees did you contact in Fiscal Year 1988 and what were the results of these outreach efforts?

Answer. Under the Chairman's supervision, Conference members and staff respond to numerous Congressional inquiries concerning administrative procedure. Most of these contacts are initiated by Members of Congress or their staffs. The Conference, of course, initiates contact with appropriate Congressional committees when a Recommendation requires congressional action to implement it or when the Conference's Appropriation or Authorization is at issue. One FTE is devoted to legislative matters, although not the full time of any one staff member. Legislative

contacts are coordinated by the Conference's General Counsel. The Conference had both formal and informal contacts, and, hence, assisted approximately 18 separate committees or subcommittees. It had additional contacts with staff members from the offices of individual Senators or Congressmen in FY-88.

As a result of this outreach effort, the Conference was asked by eight committees or subcommittees to present testimony on twelve separate occasions (apart from appropriations testimony), with the following effect, in FY-88:

1. Subcommittee on Administrative Law and Governmental Relations, House Committee on the Judiciary:

a. March 17, 1988 on bills to establish an administrative law judge corps. The Conference expressed certain reservations about establishment of such a corps and no legislative action was taken.

b. May 4, 1988, on post-employment restrictions of former government officials. Chairman Breger offered comments on the bills, some of which were reflected in H.R. 5043, which passed the Congress but was not approved by the President.

c. June 16, 1988, on the use of alternative means of dispute resolution to resolve federal agency disputes in a less costly and more efficient fashion. Although no action was taken in the House, S. 2274, the "Alternative Dispute Resolution Act of 1988," was introduced in the Senate.

d. August 10, 1988, on H.R. 3052, the "Negotiated Rule Making Act of 1987." Although no action was taken in the House, the Senate unanimously passed companion legislation (S. 1504) on September 30, 1988.

2. Senate Committee on Veterans' Affairs, April 25, 1988, on S. 11 and S. 2292, bills to revise procedures at the Veterans Administration. Congress enacted, and the President signed, Public Law 100-687, which includes a requirement strongly endorsed by the Conference (Recommendation 69-8) that the Veterans Administration use notice-and-comment rulemaking procedures for all regulations governing loans, grants or benefits.

3. House Committee on Veterans' Affairs, September 8, 1988, on H.R. 639 and H.R. 5039, bills to revise procedures at the Veterans Administration. As noted above, Congress enacted Public Law 100-687.

4. Subcommittee on Aviation, House Committee on Public Works and Transportation, April 27, 1988, on the procedural aspects of three bills to protect aviation industry employees who disclose safety information. The Conference's Research Director also provided comments on the disparate procedural provisions of the three bills. In light of the Conference's formal and informal contacts, the procedural portions of the bills were recast in H.R. 5073, to reflect the model procedures recommended by the Conference (Recommendation 87-2). H.R. 5073 passed the House during the 100th Congress.

5. Subcommittee on Labor, Senate Committee on Labor and Human Resources, July 26, 1988, on the procedural aspects of S. 2095, legislation for the uniform handling and resolution of all private sector whistleblower complaints.

6. Testimony was presented twice to the full Senate Committee on Governmental Affairs:

a. May 13, 1988, on S. 1504, the "Negotiated Rule Making Act of 1987. The Conference testified in favor of the legislation. S. 1504 unanimously passed the Senate in the 100th Congress.

b. September 14, 1988, on the Regulatory Flexibility Act and the effect of federal regulation on small state and local governmental units.

7. Subcommittee on Oversight of Government Management, Senate Committee on Governmental Affairs, April 12, 1988, on reauthorization of the Office of Government Ethics. Congress enacted Public Law 100-598, reauthorizing the Office of Government Ethics for a six-year period.

8. Subcommittee on Courts and Administrative Practice, Senate Committee on the Judiciary, May 25, 1988, on S. 2274, the "Alternative Dispute Resolution Act of 1988."

Many of the informal contacts were on the telephone, were not logged, and cannot be documented. Of those which could be documented, some overlapped with, or led to, the presentation of testimony, including the following:

Conference staff consulted with the majority and minority staffs of the Subcommittee on Courts and Administrative Practice, Senate Committee on the Judiciary, urging passage of race-to-the-courthouse legislation. Public Law 100-236 was signed by the President in January 1988.

The staff of the Subcommittee on Nuclear Regulation, Senate Environment and Public Works Committee asked whether any negotiated rulemaking provision had ever been included in legislation. Public Law 100-297 was identified as the only such instance and recommended language was provided to the Subcommittee staff which was ultimately included in Public Law 100-408, the Price-Anderson nuclear liability amendments. That statute also directed the Conference within 30 days of enactment to provide the Nuclear Regulatory Commission with a list of impartial convenors or mediators to conduct the negotiated rulemaking established in the law. A list of about 30 individuals was supplied.

The Conference's General Counsel met with the majority and minority counsel to the Senate Nuclear Regulation Subcommittee, who solicited his views on *ex parte* communications and separation-of-functions issues likely to emerge if Congress elected to replace the five-member Nuclear Regulatory Commission with a single Administrator. The Senate passed S. 2443 to replace NRC with a single Administrator but no action was taken in conference with the House.

The staff of the Senate and House Banking Committees asked to be kept apprised of all Conference projects in the financial services area. Copies of each study were provided to the committee staff. At the further request of the Senate committee staff, the Conference staff provided an oral briefing on three of the reports.

On several occasions during fiscal year 1988, the staff of the House Committee on Government Operations requested information on Conference studies on procedural aspects of financial services regulation. Thereafter, in its report entitled "Combating Fraud, Abuse and Misconduct in the Nation's Financial Institutions: Current Federal Efforts are Inadequate," H.Rep. No. 100-1088, 100th Cong., 2d. Sess. 86-90 (Oct. 13, 1988), the Committee substantially incorporated a 1987 Conference recommendation (Recommendation 87-12) urging greater consistency and uniformity in the practices of the bank regulatory agencies, greater accessibility to agency decisions, and more efficient use of administrative law judges.

Conference staff members provided assistance to the staff of the Subcommittee of Government Management, Senate Committee on Governmental Affairs, in the drafting of S. 1504, the "Negotiated Rule Making Act of 1987."

Conference staff members provided assistance to the staff of the Subcommittee on Courts and Administrative Practice, Senate Committee on the Judiciary, in the drafting of S. 2274, the "Alternative Dispute Resolution Act of 1988."

Conference staff members assisted staff of the Subcommittee on Labor of the Senate Committee on Labor and Human Resources in drafting S. 2095, establishing uniform procedures for handling private sector whistleblower complaints.

Conference staff members consulted with the staff of the Senate Governmental Affairs Committee to determine if they could assist any aspect of Congressional efforts to ensure a smooth transition to a new Administration. The Committee on Governmental Affairs was interested in transition team conflicts of interests. In its report on the Presidential Transition Effectiveness Act, S. Rep. No. 100-317, 100th Cong., 2d Sess (April 20, 1988) at 19, the committee "noted the need to have at least minimal public knowledge of potential conflicts of interest among transition personnel," and favorably took note, as well, of the Conference's willingness to address these issues in advance of the 1988-89 transition. In due course, with an interagency transfer of funds from the General Services Administration, the Conference studied the issue, leading to its Recommendation 88-1, Presidential Transition Workers' Code of Ethical Conduct. The President-elect thereafter adopted a first-of-its-kind Code of Ethics for transition team members and the President issued a Memorandum for Heads of Departments and Agencies to implement the Code.

At the request of the staff of Congressman Mickey Edwards, extensive comments were submitted on H.R. 2976, the Administrative Procedure Reform Act of 1987.

The Conference commissioned development of a research agenda looking into procedural aspects of immigration issues and held a roundtable for members of Congress and others on November 18, 1987. These initiatives were in response to a request by the House Appropriations Subcommittee on Treasury, Postal Service and General Government, contained in H. Rep. 100-211, 100th Cong. lst Sess 46 (1987).

Three members of Congress (Senator Thurmond and Congressmen Frank and Gilman) attended our March 1, 1988 working conference on government ethics, as did Michael Davidson, Senate Legal Counsel, and Steven Ross, General Counsel to the Clerk, House of Representatives.

Conference staff met with staff members of the Senate Committee on Finance and the House Ways and Means Committee to discuss the dispute resolution procedures arising under the U.S.-Canada Free Trade Agreement and the Conference's study of those procedures. In September 1988 Congress enacted Public Law 100-449, implementing the Free Trade Agreement.

The Conference's Research Director provided advice on civil penalty issues to the staffs of the Senate Committee on the Judiciary, and the Subcommittee on Courts, Civil Liberties and the Administration of Justice, House Committee on the Judiciary, in connection with fair housing legislation.

Conference staff consulted with staffs of the Senate Committee on Governmental Affairs and its Subcommittee on Oversight of Government Management and the Human Resources Subcommittee of the House Committee on Post Office and Civil Service in connection

with a Conference recommendation concerning deferred taxation for conflict-of-interest divestitures (Recommendation 88-4). No legislation was enacted but the President's Commission on Federal Ethics Law Reform, established on January 25, 1989, adopted this proposal, relying heavily upon the Conference's work.

Senator Charles Grassley and Congressman Dan Glickman participated in an April 1988 colloquy discussing legislative developments in administrative law.

Question 10. Do you expect to use the entire $1000 provided for official reception and entertainment expenses for foreign visitors in Fiscal Year 1989? If not, how much do you expect to spend for this purpose?

Answer. Yes. Although it is impossible to say that exactly $1,000 will be spent, in FY-88 the Conference spent $733.50 on official reception and entertainment expenses. Twice the Conference hosted delegates from the Soviet Union who were interested in administrative processes in the United States. Visitors were also received from Canada, Australia, the Peoples Republic of China, Israel, Ghana and Great Britain. Most of these visits are held at the request of either the Department of State or the U.S. Information Agency. This is not a line item allocation and any unexpended funds (if, for example, a spate of delegations were to cancel due to weather or other reasons) are used by to the Conference for general purposes.

Question 11. What was the original Fiscal Year 1990 budget request the Conference submitted to OMB? How did it differ with that included in the Fiscal Year 1990 Reagan Budget:

Answer. The Conference submitted a request for $2,000,000 to OMB which is the amount it is authorized by the Congress. The projection for total personnel plus benefits in the Conference's OMB submittal was $1,259,000 rather than $1,297,000 because no pay increases were reflected in the reques.. $72,000 rather than $62,000 was requested for travel and transportation because more projects were projected and because the number of members outside the beltway have increased. $19,000 more was requested for printing and reproduction to cover the cost of printing consultant reports and the publication of a Conference sourcebook during the year This reflected the gains in productivity made by the Conference in recent years--resulting in an increased number of reports and recommendations per year. $149,000 rather than $15,000 was requested in the "other services" category to permit the funding of at least six and perhaps ten new research projects. This also necessitated a $5,000 increase in the supplies and materials request. $35,000 was requested rather than the $30,000 reflected in the equipment category to reflect more closely the historical experience of the Conference.

Question 12. You have submitted to us a list of all contracts awarded to date in Fiscal Year 1989. One of these contracts indicates that the funds were obligated in 1985 but there has been a change of consultant. Would you please explain. Also, please explain the purpose of the first contract listed; the subject indicated is "Public Information".

Answer. In December 1985, a contract to study the division of roles in federal/state regulatory programs was let to Professor Colin Diver of the Boston University School of Law. Professor Diver (who had previously undertaken two very successful studies for the Conference) was to look at the various models used in such legislation as the Clean Air Act, Surface Mining and Control Act, and the Occupational Safety and Health Act, which call for federal regulatory supervision of state implementation plans. The study was begun after it became apparent that these various statutes were markedly different in the way they devolved some powers to the states while reserving supervisory authority to federal regulators.

Professor Diver submitted an outline of the project as required by the contract in 1985, but in September 1985, he became Associate Dean of his law school. In December 1985, he requested a formal extension of the due dates for his draft and final reports which was granted. However, he was only able to submit a partial draft report, for which he was not paid. In June 1988, he became Dean of the Boston University law school and formally notified the Conference that he would not complete the project. In January 1989, a contract was entered with Professor Errol Meidinger of the State University of New York at Buffalo to take over the project. This was done by amending the original 1985 contract by substituting the new consultant and new due dates.

The Conference has had a service contract with Burness Communications to edit newsletter material, provide public information services at its seminars, colloquies and plenary sessions, and perform other public information assistance as needed. This is one of the contracts being eliminated due to escalating costs and the functions have been added to the duties of in-house FTEs.

Question 13. How many additional contract awards (number and amount) do you expect to make in Fiscal Year 1989?

Answer. Under current budget projections for the remainder of FY-89 there will be approximately $50,000 available in the Conference appropriation for research contracts. This will permit five or six new projects to be started. Of course, interagency requests, accompanied by transfers of funds under the Economy Act, could allow additional contracts to be executed.

Question 14. The list of subject areas you have provided us on which decisions will be made between now and the end of Fiscal Year 1990 includes one on "Inspectors General" and one on "Government Corporations in the Federal System." Would you please describe these a little more fully?

Answer. The Conference hopes to undertake a study of the procedures under which Inspectors General (IG) operate in practice. The tentative plan for the study is that it would examine the role and operations of agency IG offices in carrying out responsibilities of programmatic review as well as their more well-known role of preventing waste, fraud and abuse. The IGs assigned role under the Program Fraud Civil Remedies Act of 1986 and other statutes would be considered. Potential additional roles for IGs such as an ombudsman-like handling of citizen complaints will be considered. This study would reflect the increasingly important role IGs play in federal programs and their far-reaching investigative and oversight powers.

The study of the role of government corporations would examine the operations and procedural constraints that apply to the proliferation of government corporations which are a hybrid of a typical government agency and a private corporation. Some, like the U.S. Postal Service and AMTRAK, are well known. But there are many others: Fannie Mae (Federal National Mortgage Association), Freddie Mac (Federal Home Loan Mortgage Association), Farmer Mac (Federal Agricultural Mortgage Corporation), Federal Asset Disposition Association, Corporation for Public Broadcasting, Legal Services Corporation, and the Neighborhood Reinvestment Corporation are some that can be found in the U.S. Government Manual. The study would examine questions raised by their uncertain legal status, including how such statutes as the APA, FOIA, Sunshine Act and others apply to these corporations.

Question 15. The table you have supplied us on page 40 of your testimony which shows direct obligations by spending category is not consistent with the object classification breakdown of your direct spending obligations on page 42. Would you please explain the differences?

Answer. The SF-300 at page 42 was incorrect. A corrected SF-300 is included as Attachment H. We apologize for the inconvenience.

The information concerning the proportion of research funded by appropriation versus interagency transfers for FY-89 and FY-90 follows:

FY-89 $160,000

Appropriated - $30,000

Interagency Transfers - $130,000 (Note: not all of this amount goes directly to fund contracts. Some of it is included in the printing and reproduction category, some in the travel category, some in Communications, and some in Supplies and Materials.) This amount may increase if additional interagency transfers are received this year.

FY-90 $50,000

Appropriated - $00

Interagency Transfers - $50,000 (projected)

Question 19. In Fiscal Year 1990, funding for "Printing and Reproduction" is expected to increase by $19,000. What is the reason for this increase?

Answer. *See* revised SF-300 (explained in answer to question 15). No increase is projected for FY-90. As Conference productivity increases, the cost of Federal Register, CFR and report printing necessarily will increase. To maintain Conference publications (Guides, Sourcebooks, Directories, etc.) and publish updated revisions as needed, a budget of approximately $137,000 is needed. The $117,000 base represents the annual costs of the Annual Report, CFR publication, Federal Register, the Recommendations and Reports annual volume, report covers, photography, and newsletters.

Question 20. How many research projects are presently on-going? How many of these were self-initiated?

Answer. The Conference has approximately 30 on-going research projects. All but seven are self-initiated. Three of our immigration-related projects were undertaken at Congressional request. See H. Rep. No. 100-211, 100th Cong., 1st Session 46 (1987). The study of the federal employee grievance and personnel appeals process is being done at the behest of the Domestic Policy Council and with the express encouragement of the House Appropriations Subcommittee, with funding by OPM. The EPA is funding two of our studies, on use of arbitration in environmental enforcement and on ADR roster development. The Department of Commerce requested, and is helping to fund, our study of dispute resolution under the U.S.-Canada Free Trade Agreement.

Question 21. Of your total $1,865,000 funding request for Fiscal Year 1990, what will be spent on each of the Conference's major activities, i.e., research, advisory and consultative, and clearinghouse activities? How do these amounts compare to what you are currently spending on each of these activities for Fiscal Year 1989?

Answer. As noted in answers to Questions 17 and 18 above, the Conference will have no appropriated funds available to it for new research contracts in FY-90. The permanent staff will thus complete research in the pipeline, conduct advisory and consultative activities, and clearinghouse activities. To the extent feasible, Conference staff will also be called upon to conduct in-house research. Most of the Conference's clearinghouse function is accomplished through the printing and reproduction category so that approximately $117,000 will be available for that purpose. This amount is the same in both FY-89 and FY-90.

For purposes of dividing the fixed portions of the budget among the three major activities, FY-89 allocations have been 55% to research, reports and recommendations, 15% to advisory assistance, 15% to clearinghouse activities and 15% to administrative support and agency management. Fourteen percent of the

Question 16. Reimbursable obligations are declining between Fiscal Year 1988 and Fiscal Year 1990, falling from $200,000 in Fiscal Year 1988 to $130,000 in Fiscal Year 1989, to $50,000 in Fiscal Year 1990. What is the reason for this decrease?

Answer. Reimbursable obligations reflect the interagency transfers the Conference has received or reasonably anticipates receiving under the Economy Act. For FY-88 the number reflects the transfers actually received. For FY-89 the number reflects the transfers either received or for which there are agency commitments. For FY-90 the number has no basis other than expectation derived from historical experience. Because the Conference received several large interagency transfers in FY-88 and FY-89 it did not seem prudent to project large transfers unless there was some indication of intent from an agency. The exclusion of the large transfers in those years reveals a number of small transfers averaging $30,000 to $50,000 in the aggregate. Further, the fiscal environment throughout the government makes future reliance on interagency transfers more speculative.

Question 17. As shown on page 42, the Fiscal Year 1990 budget proposes $142,000 for "Other Services," $80,000 above the Fiscal earR 1989 level. What funding is included in this "Other Services" classification and what is the reason for the funding increase proposed for Fiscal Year 1990? How much is included for research contracts in Fiscal Year 1990 as compared with Fiscal Year 1989?

Answer. As noted in the answer to Question 15 the table on page 42 should be revised. The funding in the "Other Services" category includes all Conference contracts. In FY-88 the category included research contracts, services contracts, interagency agreements with GSA to handle payroll, personnel actions, health unit support, and equipment repair contracts. The research component was $214,431. (The Conference's appropriated funds covered only $186,000 in this category.) Currently in FY-89 the Conference spends $10,000 for equipment repair contracts of various types and $15,000 for interagency agreements to handle its payroll and personnel actions. All other service contracts are being phased out. Research contracts are currently estimated to be about $100,000 in light of the interagency transfers received to date and some payroll savings not originally projected. In FY-90 the $1,865,000 request will not cover both of these items at current levels. Thus, equipment repair will have to be absorbed in the equipment replacement category. No funds will be available for initiation of new research contracts in FY-90 unless interagency transfers are received.

Question 18. For each of Fiscal Years 1989 and 1990, please give us the total level of funding requested for the Conference's research efforts and tell us what amount of funding and number of studies will be performed inhouse and what proportion will be contracted out. Then please give us antoehr breakdown, the proportion of your research budget which will be funded directly by the Conference and that which will be funded through interagency funding transfers.

Answer. Normally, the Conference does not do studies in-house. With only 5.5 staff attorneys, all of whom have other duties, there are insufficient hours available to support the research load. Furthermore, the range of expertise needed for all the initiatives undertaken by the Conference is not available in-house. What staff attorneys do is provide substantial support for contract studies. Staff attorneys negotiate the scope of research with the contractor, review performance of the contract, including draft reports, and circulate the reports to the affected agencies and applicable Conference committee members. Attorneys serve as staff to the Committee as recommendations based on the report are formulated, discussed and revised. They publish recommendations for comment, oversee appropriate publication of reports and recommendations, represent the Chairman with respect to the report in Council meetings and on the floor of the Conference during debate on recommendations, and ultimately develop strategies to implement the recommendation and work on implementation with the affected federal entities.

budget is associated with the initiation of new research. In FY-90 increased administrative support and management costs will be five percent higher and clearinghouse activities will receive five percent more of budgeted resources. Four percent more money will be needed to cover other inflation costs.

There is no suggestion that this is an optimum or even acceptable situation over a sustained period of time. It will be necessary to secure funds to self-initiate research projects in future fiscal years.

Question 22. You indicate that in the past, the Conference undertook its statutory responsibility to collect statistics concerning activities under the equal access to Justice Act and report annually to the congress. Why are you not meeting this statutory responsibility? If it is simply a resource problem, why hasn't the necessary funding been included in your budget? What additional funding would be required to meet this statutory responsibility?

Answer. The Conference recently submitted the required Equal Access to Justice Act report for FY-86 to Congress. It is expected that the FY-87 report will be submitted shortly. However, the Conference is awaiting some data from agencies who have not yet responded to requests for FY-87 data. A fairly substantial number of agencies have not yet provided their FY-88 data to the Conference. Since these activities are accomplished solely with in-house resources, no additional funding has been sought to meet statutory requirements.

Although not mandated by statute, if additional funding were available, the Conference would resume its collection of caseload and individual case data in connection with formal proceedings at agencies and departments. The collection of this information would be of great value to the federal government.

Question 23. I note in appendix C to your testimony a study on "Congressional Access to Confidential Agency Information"; one on "Federal Bank Regulatory Enforcement-Present and Future" which will focus on shortcomings of current procedure and the proposed legislative response; one on "The Accessibility and Retriebability of Official Opinions pertaining to Government Ethics"; and a "Legislative Drafting Guide for Grant Legislation." Would you please describe these particular studies more fully.

I also note that some of these studies are being done for use by a government office or are being done at the behest of an agency. Are those being funded by the requesting or user agency?

Answer. The inquiry asks for more information on four pending projects:

(a) "Congressional Access to Confidential Agency Information". This study will examine the law governing Congressional access to administrative agency information. The study will examine the history and outcome of past disputes over such information and will assess potential ways of improving the resolution of such disputes in order to avoid resort to contempt citations and formal law suits. The report will also provide guidance on how to achieve optimum sharing of information in this area. The project is being done by Professor Peter Shane of the University of Iowa School of Law.

(b) Federal Bank Regulatory Enforcement -- Present and Future. This study is intended to focus on an issue that has taken on heightened importance as the number of failed thrifts and banks has increased. Professor Lawrence Baxter of Duke University School of Law, who has just completed a very well-received study for the Conference of the Federal Home Loan Bank Board's receivership process (see Recommendation 88-8, Resolution of Claims Against Saving Receiverships), will examine the current enforcement tools available to bank and thrift regulators as well as those included in the various reform bills introduced in the 101st Congress. Because regulation of the financial services industry is divided up among five agencies, operating under various statutes, careful attention must be paid to issues of

uniformity of treatment and to the capability of the current or restructured agencies to enforce their regulations.

(c) The Accessibility and Retrievability of Official Opinions Pertaining to Government Ethics. Throughout the government, agency general counsels and ethics officers frequently issue opinions concerning employee conduct. In addition, the Office of Government Ethics issues formal opinions which are required by the Ethics in Government Act to be made available to the public, and informal opinions which are made available in edited versions. The study is intended to see whether these agency and OGE opinions are being maintained in a manner that is most useful to government ethics counselors and to the public. The project is currently in the planning stage and OGE will be consulted before research is begun.

(d) A Legislative Drafting Guide for Grant Legislation. In 1982, the Administrative Conference completed a study and adopted a recommendation on how agencies resolve disputes arising out of federal grant programs. (Recommendation 82-2, Resolving Disputes under Federal Grant Programs). In 1985, Malcolm Mason, former Conference member and recently retired Chairman of the HHS Grant Appeals Board, suggested that it might be beneficial to try to prevent grant disputes by giving greater attention to the legislative drafting of grant-related statutes. Topics covered include the drafting of dispute clauses, and provisions covering third party rights, maintenance of effort requirements and sanctions for noncompliance. An informal advisory group (including Congressional staff members) was created and with its advice, Mr. Mason gradually developed a draft and final version of the guidebook. Among the Congressional staff members involved were Robert Coakley from Senator Chiles' office and Margaret Wrightson from the Senate Committee on Governmental Affairs. Last fall, the guidebook was completed and if sufficient funds can be found, the Conference intends to disseminate the guidebook widely and conduct seminars for Congressional and agency staffs on this subject.

As noted by the second part of your question, some of the pending research projects listed in Appendix C to our testimony are being done at the behest of another agency. These include the following:

-- Arbitration in environmental enforcement (funded out of EPA funds, contract administered by the Conference)

-- Federal employee grievance and personnel appeals process (done at behest of Domestic Policy Council, funded by OPM)

-- Agency standards of conduct for employees (funded by GSA)

-- Dispute resolution under the U.S.-Canada Free Trade Agreement (funded by Department of Commerce)

-- ADR training activities (in part funded by Armed Services Board of Contract Appeals)

Question 24. Are all Conference documents and materials provided free-of-charge?

Answer. Normally, yes. However, the Conference's rules on public availability of documents and records, 5 C.F.R. §304, provides for a schedule of fees that can be used in the case of burdensome requests. Charging for documents and materials would not affect the Conference's budget since receipts would be turned over to the general fund. Moreover, there would be additional costs to run an accounting system for material charges which might well outweigh the fees received. Further, the bulk of Conference materials and documents go to other government agencies and government employees so that charging fees would have only an illusory benefit to the government.

Question 25. If you did not promote the adoption and implementation of Conference recommendations, are you confident that agencies would implement these at their own initiative?

Answer. Procedural improvements would likely be much more problematic in the absence of Conference adoption and implementation of its recommendations There is no doubt that some agencies adopt procedural changes on their own initiative. But many will adopt changes in their procedures or methods of operation -- and, indeed, have adopted such changes -- only because they are recommended by the Conference. The Conference's early recommendation on elimination of certain APA exemptions is illustrative. Although public participation in rulemaking proceedings is generally the norm, the APA contains an exemption for rulemaking actions associated with the government's so-called "proprietary" activities, i.e., the management of public property, the conferral of grants and benefits, and government loans and contracts. Despite the exemption, agencies had the statutory authority to employ notice-and-comment procedure even where not required to do so. Nevertheless, a survey of agencies conducted by the Conference revealed that most agencies did not follow notice-and-comment procedures when not required to do so. See Bonfield, Report of the Committee on Rulemaking in Support of Recommendation 16, 1 Recommendations and Reports of the Administrative Conference of the United States 317 (1970). In 1969 the Conference recommended elimination of the proprietary function exemption (Recommendation 69-8). In light of the Conference's recommendation, more than a dozen agencies voluntarily agreed to use notice-and comment-procedures. These included the Departments of Agriculture, HEW, HUD, Interior, Labor, Transportation, and Treasury, as well as, the Federal Home Loan Bank Board and the Small Business Administration.

The Conference's recommendation for a transition-team code of conduct is a recent example of the same phenomenon. In June 1988, the Conference recommended that any new Administration adopt a first-of-its-kind Code of Conduct for transition workers. We advocated such a code with the staffs of both Presidential candidates and the White House Counsel's office and actually drafted a model code. Shortly after the 1988 election, we contacted the President-Elect's staff to renew this initiative. The President-Elect issued a Code of Conduct for Transition Workers modeled on the Conference's recommendation. It seems unlikely that such a comprehensive code would have been promulgated absent the Conference's recommendation and follow-up.

Some agencies might implement our recommendations on their own accord while others would not if the Conference were not to devote resources to implementation activities. But there is undoubtedly a higher rate of implementation because of the Conference's efforts. This is particularly true where agencies lack the necessary expertise to implement recommendations. The Conference conducts seminars, colloquia and training programs to introduce agencies to useful procedural reforms. With assistance from the Federal Mediation and Conciliation Service, for example, the Conference last year presented a series of three training sessions for judges of the Armed Service Board of Contract Appeals on uses of alternative means of dispute resolution.

In the area of alternative means of dispute resolution (ADR), a major Conference theme, it has been necessary to put substantial effort into implementation activities. The Conference created and nurtured the concept of negotiated rulemaking (Recommendations 82-4 and 85-5) a successful new approach to rulemaking which would probably not have been tried without extensive Conference advice and assistance. Similarly, Conference efforts (colloquia, publications, informal meetings and roundtables) are helping agencies incorporate ADR techniques into other programs.

Question 26. To what extent do the consultants performing research work for the Conference publish this work under their own name?

Answer. Consultants performing research work for the Conference must agree to the following contractual provision:

> The Contractor agrees to submit in writing to the Contracting Officer a request to publish or arrange for publication of any subject data, specifying in his request the material to be published, the manner and timing of publication, and arrangements, if any, for statutory copyright of the material to be published. Any such publication shall acknowledge that the study was conducted with the support of the Administrative Conference of the United States. In any instance when the Contracting Officer proposes to deny consent for publication, the Contracting Officer agrees to give the Contractor specific reasons and afford an opportunity for the Contractor to respond thereto including modification of his request to meet any such reason.

In practice, the Conference normally permits and encourages publication of reports in scholarly journals. The dissemination of recommendations and reports is clearly in the best interest of the U.S. Government as it is likely to lead to further acceptance and implementation of Conference recommendations. Of course, the Conference reserves the right to disseminate the report in both the original manuscript and reprinted form.

Question 27. What is the average cost of a Conference research study?

Answer. $7,000, plus $4,000 to $8,000 in related expenses for per diem and travel of the consultant and out-of-town committee members, reproduction and printing, mailings and other incidental costs. These cost estimates assume a single consultant, a single topic, and approximately six months of part-time research effort on the consultant's part.

[CLERK'S NOTE: Appendices A through H will not be printed in the hearing record but are available for review in the subcommittee files.]

U.S. TAX COURT

STATEMENT OF HON. ARTHUR L. NIMS III, CHIEF JUDGE

ACCOMPANIED BY:

CHARLES S. CASAZZA, CLERK OF THE COURT
PAUL NEJELSKI, COURT ADMINISTRATOR

INTRODUCTION OF WITNESS

Senator DECONCINI. Next we will receive testimony from the U.S. Tax Court. We are pleased to have the Chief Judge, Judge Nims, as the primary witness this morning. Judge, we welcome you here. I want to just compliment the Tax Court on its budget justification. It really is one of the more outstanding ones we have received, and we go over a lot of them. We appreciate the time that your people have put into this, Your Honor. You may proceed to summarize your opening statement.

Judge NIMS. Thank you very much, Mr. Chairman. On my right is Charles Casazza, the clerk of the court, and on my left is Paul Nejelski, the court administrator. I will try to make this quite brief because I know that the chairman's time is limited.

BUDGET REQUEST

The court is requesting $28,120,000 and 350 permanent positions for fiscal 1990. This amount is $1,225,000 below the fiscal 1989 appropriation of $29,345,000. The reduction represents $1,225,000 appropriated by Congress in fiscal 1989 for the installation of a chiller system and cooling towers in the Tax Court's courthouse in Washington.

Thus, after making the adjustment for the chiller project, the court is requesting for fiscal 1990 the same funding level that was approved for fiscal 1989. In order to avoid any increased requests, the court will absorb the costs associated with inflation and maintain travel and transportation costs at fiscal 1989 levels.

The fiscal year 1990 budget represents the court's best judgment as to the funds and personnel resources needed to manage our case inventory and continue making progress in reducing the inventory. For the second year in a row, the Tax Court has succeeded in reducing its total inventory. Our inventory has declined 17 percent from fiscal 1987. We now have about 68,000 cases pending, at least we did as of last September 30. That figure has subsequently declined even further.

CASE INVENTORY

As of the close of fiscal 1988, the court had reduced its inventory 20 percent from the all time high of about 84,000 cases at the end of fiscal 1986. So we feel that we are really making substantial

progress. We cannot predict with certainty the changes in our inventory during fiscal 1989, but the court expects the number of petitions filed in fiscal 1989 to be at or below the level of 33,000 cases for fiscal 1988.

The factors leading to the decrease include amendments to the Internal Revenue Code. The partnership provisions contained in the Tax Equity and Fiscal Responsibility Act of 1982 eliminated the need for investors separately to litigate individual interests. The Reform Act of 1986 limited the deductibility of interest on deficiencies in a nonbusiness setting, a change which contributed to a reduction in the number of new filings.

The enactment and modification of section 6673 has permitted the court to impose damages on taxpayers who assert positions that are frivolous and groundless, thus discouraging purely protester types of actions. We feel that this section has been particularly effective in helping us to almost eliminate the protester type of cases.

The court has issued a number of opinions now in leading tax shelter area cases. These lead case opinions have the effect of making it possible to close by settlement thousands of related cases involving the same shelter. The settlement policies of the Chief Counsel's Office of the IRS have also been increasingly effective in the last year or two and have helped quite a bit in reducing our case inventory.

Unlike many other Government entities with multiple programs, the Tax Court has only one program, the judicial resolution of Federal tax cases. It is a single significant mission. The court is proud of its dedication and expertise and that of its judicial officers and employees who help fulfill this mission.

The statute requires us to hold sessions with as little inconvenience and expense to taxpayers as is practicable. It is thus essential that the Tax Court travel extensively, as Mr. Chairman, you are well aware of, to meet our statutory mandate. This completes my summary report. I will, of course, be glad to answer any questions that you might have.

PREPARED STATEMENT

Senator DECONCINI. Judge, thank you very much for that, and my compliments on the operation of the court. Your complete statement will be made part of the record.

[The statement follows:]

STATEMENT OF CHIEF JUDGE ARTHUR L. NIMS, III

Mr. Chairman and members of the committee, I appreciate the opportunity to appear before you and present for your consideration the appropriation request of the United States Tax Court for fiscal year 1990.

FISCAL YEAR 1990 BUDGET REQUEST

The Tax Court's fiscal year 1990 budget request is for $28,120,000 and 350 permanent positions. This amount represents a decrease of $1,225,000 (4.2%) from the fiscal year 1989 appropriation of $29,345,000. The reduction represents $1,225,000 appropriated by Congress in fiscal year 1989 for the installation of a chiller system and cooling towers in the Tax Court's Courthouse in Washington. D.C. The fiscal year 1990 budget request reflects the Court's best judgment as to the funds and per-

sonnel resources required to manage our case inventory and to continue the progress the Court has made in reducing the inventory.

FISCAL YEAR 1990 PLANS

For fiscal year 1990, the Court's budget request and plans include the following:

1. The Court will continue to modify and refine the automated docketing system as required to comply with legislative changes in the Court's proceedings. Also, word processing and other computer capabilities will be updated as necessary. The Court will evaluate the feasibility of providing judges' offices with access to automated legal research data bases. The Court will continue development of software for the Court's library to provide up-to-date access to legal databases and management of the library collection and materials. Implementation and improvements of computer application in administrative functions including spreadsheets, communications, accounting and payroll processing will also be made.

2. The Court will absorb the costs associated with inflation. No additional funds are requested for fiscal year 1990 to cover projected increases due to inflation.

3. The Court will maintain travel and transportation costs at fiscal year 1989 levels. This action will have no effect on the number of trial sessions that the Court will hold in fiscal year 1990. Savings will occur from Court sessions that conclude prior to the scheduled ending date.

4. The Tax Court will continue to acquire new security equipment for monitoring activity in and around the Courthouse in Washington, D.C. The Court will purchase additional stationary and portable walk-through metal detectors and hand-held transceiver units for its field courtrooms. Additional funds may be required in the future for the purchase of additional equipment and reimbursement to the U.S. Marshals Service (USMS) for security personnel who assist the Court in cities throughout the country. The Court will continue to work with USMS and Internal Revenue Service personnel to ensure a secure environment for the proceedings of the Court.

5. The Court will continue the training program started in fiscal year 1986 for the Presidentially appointed judges. The Court has found that training for the judges and other staff has been a success. Most of the training is conducted in-house at no additional cost to the Government. The total amount requested for this training is $19,000 although much less is usually expended each fiscal year.

6. The Court does not know the full impact of the Technical and Miscellaneous Revenue Act that passed Congress in 1988. However, certain changes are apparent. For example, the Act will require the Court to keep files for a longer period because taxpayers will be permitted to reopen cases for a redetermination of interest on deficiencies and the Court may reopen cases involving extensions of time for estate tax payments.

THE COURT'S INVENTORY

Any discussion of the Court's workload must emphasize that, at the present time, the Tax Court handles approximately 95% of all substantive tax litigation, exclusive of collection actions, in the Federal courts. As the Committee knows, it is the only court where taxpayers can litigate their cases without prior payment of a tax deficiency determined by the Internal Revenue Service. Proceedings in the Tax Court are begun by the filing of a petition by a taxpayer who has received a notice from the Commissioner of Internal Revenue determining a deficiency in tax. The Tax Court has no control over the deficiency notice procedure.

The Court has made significant progress in reducing its inventory during the last two fiscal years. During most of the last decade, the Court experienced annual increases in the number of pending cases, marked by a record high inventory of 83,686 cases on September 30, 1986. During fiscal years 1987 and 1988, however, the Court's total inventory declined. A reduction in the number of cases filed and increased closings, including a record level in fiscal year 1988, have led to this development.

During fiscal year 1988, the number of cases filed with the Court declined 23% from the prior year, from 42,623 filed in fiscal year 1987 to 32,701 cases filed in fiscal year 1988. The number of cases closed increased 5%, from 45,082 cases in fiscal year 1987 to 47,165 cases in fiscal year 1988. The Court's inventory declined 17% during fiscal year 1988, from 81,549 cases at the end of fiscal year 1987 to 67,491 cases pending as of September 30, 1988. As of the close of fiscal year 1988, the Court had reduced its inventory 20% from the high of 83,686 cases on September 30, 1986.

From fiscal year 1979 through fiscal year 1988, the number of cases filed increased 91% (down from a high of 183% in fiscal year 1986); the number of cases closed increased 252% (up from the previous high of 237% at the end of fiscal year 1987); and the Court's overall inventory increased 150% (down from a high of 209% in fiscal year 1986).

Although the Court cannot predict with certainty the number of new cases that will be filed, the Court expects the number of petitions in fiscal year 1989 to be at or below the fiscal year 1988 level of 33,000. If the number of closing continues to be significant, and the Court believes it will, the Court should see a further reduction in its inventory during fiscal year 1989.

Factors affecting the inventory of the Court include the following:

1. The partnership provisions contained in the Tax Equity and Fiscal Responsibility Act of 1982 eliminated the need for investors separately to litigate their individual interests. The statute and Court's rules governing partnership actions now permit multiple interests to be considered in a single action.
2. The settlement policy of the IRS Chief Counsel's office encourages the resolution of cases prior to commencing an action in the Court.
3. The Tax Reform Act of 1986 substantially limited the deductibility of interest on deficiencies in a non-business setting thereby contributing to the reduction in new filings.
4. The Court has made an effort to impose damages on taxpayers who assert positions that are frivolous and groundless thus discouraging the purely protestor type actions. The Court began imposing damages under section 6673 during fiscal year 1985. Since that time, a total of nearly four million dollars has been awarded involving 1,137 closed cases.
5. The number of closed cases has increased as a result of opinions being issued in lead cases that govern hundreds and even thousands of other related cases.
6. Effective case management by the Court has increased the settlement of cases filed in the Court.

I want to emphasize that the inventory does consist mostly of recently filed cases. While the Court takes into account the wishes of the parties, it is increasingly encouraging the parties to go to trial and less frequently granting motions for continuance unless detailed reasons are given.

SMALL TAX CASE PROCEDURES

Under the small tax case procedures, which apply only if elected by the taxpayer, trials are conducted in an informal and prompt manner. The rules of evidence are relaxed; neither party is required to file a brief; and neither party may appeal. In 1984, Congress increased the jurisdictional limit for the small tax case from $5,000 to $10,000 for each taxable year.

The Court currently is authorized seventeen special trial judges who are generally assigned to handle the small tax case work. They are also assigned certain types of regular cases, but in such cases their findings and opinions are reviewed by a presidentially appointed judge of the Court.

Generally speaking, the number of cases in which the small tax case election has been made has increased steadily since the provisions became law. However, a slight decrease was experienced in fiscal year 1988 which was consistent with the decrease in regular case filings during the year. In fiscal year 1971, 1,349 small tax cases were filed; in fiscal year 1977, 1976 small tax cases were filed; in fiscal year 1987, 12,561 small tax cases were filed; and in fiscal year 1988, 11,075 cases were filed, a decrease of 1,486 cases from fiscal year 1987.

The small tax case procedures, as conceived by Congress, contemplated that the cases would be heard and disposed of promptly. Expeditious handling of these small tax cases helps maintain confidence in the efficiency and fairness of the revenue and judicial systems.

LOS ANGELES OFFICE

During fiscal year 1985, the Court opened in Los Angeles, California its only regional office. Los Angeles was selected because almost 30 percent of the Court's total cases were originating in California. The office is staffed with one Special Trial Judge and four employees.

SUMMARY

While manageable, the Tax Court inventory is substantial and will continue to be so because of its unique jurisdiction. The Tax Court's goal is to resolve cases expedi-

tiously while giving careful consideration to the merits of each matter. The Court is also committed to providing taxpayers with a convenient forum for trial and simplifying the presentation of disputes involving relatively small amounts of tax dollars. The Court's small-tax-case procedures, the opening of a California office, and the use of bench opinions were implemented to achieve these goals. Similarly, the Court's expedited procedures seek to provide a prompt resolution of significant issues in the field of Federal taxation.

Certain of these measures, such as the small-tax-case procedures and the use of bench opinions, have proven to be effective tools for expediting the resolution of disputes before the Court. Other measures are more recent innovations whose success cannot be fully evaluated at this date. The goals, as always, will remain constant as the Court endeavors to function as a safety valve in the self-assessment system, to assure a uniform interpretation of the Internal Revenue Code, and to provide a national forum for the resolution of disputes between the taxpayers and the Internal Revenue Service.

INTERNATIONAL CONFERENCE OF COURTS WITH TAX JURISDICTION

Before concluding my statement, I would like to bring to your attention an item discussed during the fiscal year 1988 appropriation hearings. The first international conference of courts with income tax jurisdiction was held at the Tax Court in May 1988. Twelve countries were represented at the conference. Topics for discussion included jurisdiction and organization of the courts, effective disposition of cases, comparative and international law questions, and the use of data processing. The University of Virginia Law School prepared a summary of the conference. This summary, the papers prepared for the conference, and a transcript of the proceedings have been printed in the Fall 1988 issue of the *Virginia Tax Review.*

CONCLUSION

Between fiscal years 1978 and 1988, the personnel level of the Court increased only 67%. In contrast, the number of cases filed from fiscal year 1978 to 1988 increased 91% and the number of cases closed increased over 252% during the same time period. Thus, the productivity of the existing personnel has increased significantly over the past few years.

We are proud that during fiscal year 1988 we achieved our goal of having case closings exceed case filings by 14,464 cases. With adequate support, we expect to reach that goal again in fiscal year 1990. The Court must have adequate funds and resources to manage the pending inventory and meet future challenges.

Unlike many other Government agencies with multiple programs, the Tax Court has only one program—the judicial resolution of Federal tax cases. Whenever appropriations are decreased, the primary area in which the Court is able to reduce its expenses is the amount of travel needed to hear cases. Only 3% of our cases are heard in Washington, D.C.; 97% are heard in other locations throughout the country. The Court's statute requires that sessions be held *with as little inconvenience and expense to taxpayers as is practicable.* 26 U.S. Code 7446. If the Tax Court does not travel and hold trial sessions, the inventory will begin to increase once again and the funds due Treasury will not become available.

During fiscal year 1988, the dollar amount of deficiencies ultimately determined by the Court to be owed by taxpayers was $1.3 billion, over 46 times the amount of our fiscal year 1990 budget request. The 67,491 case inventory in the Tax Court at the end of fiscal year 1988 involved deficiencies determined by the Internal Revenue Service in the total amount of $18,100,638,090. To the extent of taxes owed, the revenue ultimately involved in these cases cannot be collected until they have been heard and decided or otherwise disposed of. To the extent that the determined tax liabilities are not in fact owed, they create financial uncertainties for corporations and individuals in making business, investment, and other decisions. The Court's role is thus a critical part of the revenue and tax systems. Its action on cases results in the collection of funds for the Treasury. Just as importantly, however, it resolves taxpayer disputes with the Government in a professional, expert, objective manner.

Mr. Chairman, that concludes my statement. I will be pleased to answer any questions the Committee may have.

CASE INVENTORY

Senator DECONCINI. The Tax Court handles 95 percent of all substantive tax litigation in the Federal courts. Your testimony states

that the number of cases coming before the court has steadily declined since fiscal year 1987, and your estimated caseload in 1989 will be less than that of 1988 levels. What is your estimated caseload for 1990?

Judge NIMS. We are right at 63,177 cases as of January 1989. I do not think that number is going to decline too substantially, but it will decline somewhat.

Senator DECONCINI. What impact will the Technical and Miscellaneous Revenue Act of 1988 and the Taxpayer Bill of Rights have on your caseload adjustment requirements? Do you have any estimates?

Judge NIMS. Well, I think speaking of the 1988 act first, we have received some new jurisdictional authorities. I do not think the number of cases will increase substantially, but they may be time-consuming because they involve areas such as jeopardy assessment injunctions, and similar things that may require a judge to drop everything and give his total attention to that kind of a case for a week or two.

Senator DECONCINI. Have you looked at the Taxpayer Bill of Rights and made an assessment as to what you think the impact on the court may be?

Judge NIMS. Well, we have not gotten any quantitative impact. We certainly looked at it in terms of drafting rules to deal with it.

Senator DECONCINI. And have you drafted rules for that already?

Judge NIMS. Yes; we are in the process of it.

CHILLER SYSTEM

Senator DECONCINI. Last year we gave you special funds for a cooling system. Can you report just briefly on what the status of that is?

Judge NIMS. I will ask, if I may, the court administrator, Mr. Nejelski, to speak on that.

Senator DECONCINI. Mr. Nejelski, can you tell us this?

Mr. NEJELSKI. Yes, Senator. The Public Works Committee has given us authorization and the money has been obligated. We estimate that it will take about 2 years for the engineering studies and the request for proposals and the work to be done.

Senator DECONCINI. So it is going to be awhile before we even know what it is going to cost?

Mr. NEJELSKI. Well, no, we believe that it will be——

Senator DECONCINI. You do not think it is going to cost any more than that?

Mr. NEJELSKI. No; we do not.

Senator DECONCINI. So in your best judgment, that is going to be a one-time only expense?

Mr. NEJELSKI. Yes, it is.

Senator DECONCINI. I was concerned when you handed it over to GSA and asked them for all these assessments. That means there may be another bill.

Mr. NEJELSKI. We had done preliminary work as to what the parameters would be.

IRS DETERMINATIONS

Senator DECONCINI. I know you had. Thank you. Last year we asked you to compare the tax deficiency estimates from the IRS, Your Honor, and the redetermination by the U.S. Tax Court. Your response showed a dramatic difference between that of the IRS, what they had determined, and the amount redetermined by the court. For example, in fiscal year 1987, IRS estimated deficiencies of $3.1 billion versus the actual $891 million as redetermined by the court.

Can you explain to the committee why the IRS estimates are more than three times higher than the court's determination, and do you have any suggestions at to how to get more accurate estimates from the IRS? I ask the question because we need some help. We appropriate money for taxpayers' compliance based on what we believe to be very sound evidence and recommendations by the IRS, based on what kind of revenue could be generated. That has become one of the great revenue finds around here. Yet the revenue estimates do not turn out to be the amount actually collected. I wonder if you had any opinions or could help us understand why the IRS collections do not reflect the IRS estimates? I intend to ask the IRS that question, too.

Judge NIMS. Well, Mr. Chairman, the IRS sets up deficiencies, and then as you probably are well aware they settle the vast majority of the cases. I am looking now at some figures for 1988. The IRS determined deficiencies and sent out deficiency letters totaling $3.7 billion. Then these cases were settled for about $1 billion, by the IRS. We do not normally supervise settlements. That is negotiated between the Government and the taxpayer. So that accounts very substantially for this big difference.

Senator DECONCINI. For that difference.

Judge NIMS. Yes.

Senator DECONCINI. When a settlement is reached, do they ever come in for a judgment or consent judgment before you?

Judge NIMS. Yes; we enter a so-called decision. That is a defined term under the Internal Revenue Code.

Senator DECONCINI. And that decision is more routine on the court's basis? You do not review the settlement as to the substance?

Judge NIMS. We do not, sir.

Senator DECONCINI. If the Government and the taxpayer agree to it, you approve of it, in essence?

Judge NIMS. That is absolutely correct, sir. Occasionally, one party or the other will ask to read the basis for the settlement into the record. And obviously we permit that, but when they settle a case, we basically do not interfere with that proceeding.

Senator DECONCINI. Judge, thank you for your testimony. Please convey the feelings of this committee to your member judges and your staff for a job well done as far as we are concerned. We think you are most responsible, and your budget justifications obviously are taken seriously by the court. That helps us do our job here, and we are very, very satisfied with how the court operates. I think a lot of it is due to your leadership and that of the administrators and the judges on the court.

Judge NIMS. Well, I certainly appreciate those complimentary words, Mr. Chairman, and I will take them back to the court. Thank you very much, sir.

SUBMITTED QUESTIONS

Senator DECONCINI. We also have some questions for the record from Senator Domenici, and we will have a few others ourselves.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR DECONCINI

INFLATION COSTS

Senator DeCONCINI. Your testimony indicates that the FY90 budget request will require the Court to absorb the costs of inflation. How much are these estimated costs and can they be absorbed without significantly affecting caseload requirements.

Chief Judge Nims. For fiscal year 1990, the Court estimates inflation costs will be $103,000. The Court has proposed to absorb the total expense associated with inflation in fiscal year 1990. This action will not affect the Court's caseload.

TRAVEL SAVINGS

Senator DeCONCINI. Travel and related costs for FY 90 are being held at the FY90 level. Your budget submission states that this will not have an effect on the number of trial sessions because you expect to use savings resulting from shorter than anticipated session schedules. What were you savings from shortened sessions thus far this fiscal year, and what are the estimated savings in FY90?

Chief Judge Nims. The Court has scheduled 400 weeks of trial sessions in fiscal years 1989 and 1990 at an estimated expense of $1,000,000 each fiscal year. If all planned court sessions were conducted to the scheduled completion date, the Court would require $1,400,000 in resources each fiscal year. The savings of $400,000 has already been reflected in the Court's budget request for both fiscal years 1989 and 1990.

SECURITY

Senator DeCONCINI. Let's turn to security requirements for the U.S. Tax Court. What security is provided to the Court from the U.S. Marshall's Service?

Chief Judge Nims. Internal Revenue Code section 7456(c) provides, in part:

> The U.S. Marshal for any district in which the Tax Court is sitting shall, when requested by the Chief Judge of the Tax Court, attend any session of the Tax Court in such district.

Pursuant to that section, the Court has requested that U.S. Marshals Service (USMS) personnel be present during various proceedings of the Court in different cities to which the Court travels. At the Court's request, USMS personnel have also set up and operated metal detectors at various sessions of the Court. For some locations, the Court has purchased the equipment -- both walk-through and hand-held metal detectors. In other instances, the equipment has been provided by the USMS.

Senator DeCONCINI. Is this a reimbursable program, and if so, are the funds programmed for those activities in FY90 sufficient to provide the security necessary to protect the safety of the Judges and personnel at the various Tax Court locations? If not, how much additional funding is necessary and for what purposes?

Chief Judge Nims. The Tax Court's fiscal year 1990 budget request is sufficient to cover the Court's security needs in the next fiscal year. However, thereafter, additional funding might be re-

quired. The U.S. Marshals Service bears the cost of providing security to the Tax Court when Deputy U.S. Marshals are assigned to Court proceedings. However, as Tax Court requests for security continue, and it is determined that, in some instances, USMS-trained contract personnel are available in a particular district and are capable of filling the Court's security needs, then the Court and the USMS will discuss having the Court reimburse USMS for those costs. This is the same practice that applies to security arrangements for federal district courts.

As the Court's budget estimates state (at page 14), USMS selected and trained contract personnel, known as "Court Security Officers" or "CSO's", have been providing building security at the Tax Court's Courthouse in Washington, D.C. This program began in fiscal year 1988. The Court has been paying for this service under a reimbursable agreement with the USMS. Funds for the services are included in the Court's fiscal year 1990 appropriations request.

TRAINING

Senator DeCONCINI. $19,000 is being requested in FY90 to cover the costs of training for your Judges. How does this compare to the budgeted amount in FY89 and is this amount sufficient to cover training needs?

Chief Judge Nims. The Court also requested $19,000 for training for Judges in fiscal year 1989. As our budget justification indicated, only about half of this amount is actually expended. Most of our training is in house and conducted by the judges. The remainder is returned to the Treasury.

NEW JUDGES

Senator DeCONCINI. How many new judges do you estimate will be appointed in FY90 compared to FY89?

Chief Judge Nims. In fiscal year 1989 the President is expected to appoint one Judge to replace a Judge who will be taking senior status. The Court does not anticipate additional Judges being appointed by the President in fiscal year 1990.

LITIGATION TIME

Senator DeCONCINI. How long does it take to litigate a major case vs. a small tax case under $10,000?

Chief Judge Nims. Those cases involving less than $10,000 in which the taxpayer elects the small case procedure are scheduled for trial as promptly as possible and are disposed quickly. For example, frequently these cases involve a single issue which are not that complex and thus allowing disposition by the rendering of a bench opinion at the conclusion of the trial. Even those small tax cases which require opinions are disposed of more quickly than regular cases. Normally the Court does not require written briefs from the parties in these cases and a majority (74%) are disposed of in six months or less. The multi-issue regular case is normally more complex and the parties are required to file written briefs subsequent to the trial which in turn delays the ultimate issuance of an opinion. Approximately 50% of all regular tax cases are disposed of with 12 months.

NUMBER OF SMALL CASES

Senator DeCONCINI. What is the ratio of major to small tax cases brought before the Court?

Chief Judge Nims. In fiscal year 1988 the Court had 21,626 (66%) regular tax cases filed and 11,075 (34%) small tax cases filed. The ratio of regular tax cases to small tax cases is approximately 2:1.

REGIONAL OFFICES

Senator DeCONCINI. In FY85, the Court opened a regional office in Los Angeles because 30% of the total cases were originating in California. What impact has this regional office had on your national inventory, and is the current staff sufficient to carry the caseload in California? If not, what additional staffing is necessary?

Chief Judge Nims. The regional office in Los Angeles is adequately staffed to handle those cases with a designated place of trial of Los Angeles.

Senator DeCONCINI. Has the Court given consideration to the opening of other regional offices in different parts of the country?

Chief Judge Nims. The Court is not considering additional regional offices at this time

INTERNATIONAL CONFERENCE

Senator DeCONCINI. Your testimony mentions the fact that the first international conference of tax courts was held in May of 1988. How successful was the conference and what recommendations, if any, were made?

Chief Judge Nims. The conference was a success based on the reactions of the participants from the foreign countries and our Court. The conference was informational in nature and no recommendations were formally adopted. The conference focused on (1) organization of courts with tax jurisdiction, (2) procedural issues such as prerequisites to filing a case and the role of taxpayer advisors, and (3) enforcement and the abusive taxpayer. The transcript of the conference and related materials were published in a special issue of the Virginia Tax Review (Volume 8, number 2 - Fall 1988).

Senator DeCONCINI. Do you plan to implement any of these findings in FY90? If yes, is your budget sufficient to cover the implementation costs? If no, why not?

Chief Judge Nims. No findings or recommendations were adopted by the conference.

QUESTIONS SUBMITTED BY SENATOR DOMENICI

MAXIMUM CASELOAD

Senator DOMENICI. You make a valid point regarding the Court's critical role in the collection of funds for the Federal government (i.e., if you cannot travel and hold trial sessions, your case inventory will increase and funds due the Treasury will not become available). What is the maximum caseload the Court could handle in fiscal year 1990 if our goal was to resolve the maximum amount of deficiencies IRS claims to be owed to the Treasury?

Chief Judge Nims. The Court is currently hearing all cases brought before it in a timely manner. No additional cases could be heard even with additional funds.

Senator DOMENICI. What additional resources would the Court require in fiscal year 1990 to do this?

Chief Judge Nims. No additional funds would be required.

INFLATION COSTS

Senator DOMENICI. No funds are requested in fiscal year 1990 to cover projected increases due to inflation? What is the total amount of the costs associated with inflation which you will be required to absorb?

Chief Judge Nims. For fiscal year 1990, the Court estimates inflation costs will be $103,000. The Court has proposed to absorb the total expense associated with inflation in fiscal year 1990.

CHILLER PROJECT

Senator DOMENICI. In fiscal year 1989, $1,225,000 was appropriated for the installation of a chiller system and cooling towers in the Tax Court's Courthouse in Washington, D.C. When is this work expected to be completed?

Chief Judge Nims. The estimated completion time is two years. According to GSA, design will take seven months; preparation, negotiation and award of the contract four months; and installation will take 12 months.

TRAINING

Senator DOMENICI. Your fiscal year 1990 request includes $19,000 for the training program for the Presidentially appointed Judges. You indicate that much less is usually expended for this program. How much is usually expended for this training program and why are you requesting more than is necessary to cover the costs of this training?

Chief Judge Nims. About half of the funds have been expended each year since the training program started three years ago. We have requested $19,000 each year because we do not know exactly how much will be required in advance because of various contingencies. For example, the Court budgets for five speakers at a total estimated cost of $5,000 per year but some speakers from outside the Court do not charge for their travel and other expenses because they may have come to Washington on other business. Additionally, some of the speakers will be Judges of the Court at no cost. The Court also budgets for up to four Judges to attend the summer program of instruction at Harvard Law School each year at an estimated cost of $14,000. Because of their trial schedules, we do not know how many Judges will be able to attend this educational program each year. Any unobligated funds are returned to the Treasury.

TAX CODE CHANGES

Senator DOMENICI. You indicate that the Court does not know the full impact the Technical and Miscellaneous Revenue Act of 1988 will have on it, but you do know of two changes that will have an impact, i.e., the Court will have to keep files for a longer period

since taxpayers will be able to reopen cases for redetermination of interest on deficiencies and the Court may reopen cases involving extensions of time for estate tax payments. Obviously, your budget request for fiscal year 1990 was made before you could factor in these two impacts. How will those changes alter your resource requirements?

Chief Judge Nims. At this time, the Court does not project additional funds will be required for the redeterminations of interest on deficiencies or for cases involving extensions of time for estate tax payments.

SECURITY

Senator DOMENICI. The FY 1990 appropriations' justification indicates that the Court is taking steps in fiscal year 1989 to improve security at the Washington, D.C. Courthouse. It indicates that, in fiscal year 1989, the Court has replaced GSA contract guards with Court Security Officers (CSO's) and will install a duress intrusion alarm system. What has been the cost to the Court of making each of these security improvements?

Chief Judge Nims. The U.S. Marshals Service has been selecting and training contract personnel (Court Security Officers) for the Tax Court Courthouse under a reimbursable agreement that took effect in fiscal year 1988. The annual cost of security under this program is approximately $385,000. Prior to the change, the Court was paying GSA $155,000 per year for its contract guard service. It should be noted, however, that under the USMS contract, CSO's must meet stringent qualification requirements. Also, the Court now has more officers on duty at any given time than under the GSA provided service.

During fiscal year 1989 the Court installed a duress intrusion alarm system at a cost of $28,000. The Court now has duress alarms in all judges' chambers and all courtrooms in the Washington, D.C. Courthouse.

Senator DOMENICI. The fiscal year 1990 request indicates that new security equipment for surveillance of the headquarters building and for metal detectors will be acquired. What amount is included for these security measures?

Chief Judge Nims. The Court's fiscal year 1990 budget estimates state:

> The Court will continue to acquire new security equipment for surveillance of the headquarters building and building perimeters. The Court will purchase additional stationary and portable walk-through metal detectors and hand-held transceivers for its field courtrooms.

The Court included $7,000 in its fiscal year 1990 budget for upgrading security equipment in the Courthouse. New monitors and cameras will be installed as part of the upgrading efforts.

Senator DOMENICI. How many portable metal detectors and hand-held transceiver units will be purchased?

Chief Judge Nims. The Court has already purchased five stationary and four portable walk-through metal detectors as well as twenty hand-held transceivers for use in our field courtrooms. In fiscal year 1989, the Court plans to purchase 15 walk-through metal detectors and 25 hand-held transceivers for use in facilities that do not have any weapons screening devices in place. The fiscal year

1990 appropriations request included $40,000 to continue purchasing equipment, based on the Court's continuing assessment of security needs in both leased and borrowed field facilities.

Senator DOMENICI. When will the Court have a full assessment of its security requirements?

Chief Judge Nims. As the Committee is aware, the Court travels to approximately 80 cities. In those locations where the court has its own assigned space, the Court has completed its evaluation of the security aspects of the facility. However, ongoing security assessments will be required in cities where the court borrows space in different buildings depending upon the availability of courtrooms.

AUTOMATION

Senator DOMENICI. In fiscal year 1990, the Court indicates it will continue to spend funds on its automated docketing system, its word processing and other computer capabilities, and on the development of software for the Court's library. How much is included in the Court's fiscal year 1990 budget for automation requirements?

Chief Judge Nims. The Court has budgeted $370,000 in fiscal year 1990 for automation projects.

Senator DOMENICI. What amount did the Court spend on automated data processing needs in fiscal year 1988?

Chief Judge Nims. In fiscal year 1988 the Court expended $149,000 in automation projects.

Senator DOMENICI. How much is being spent in fiscal year 1989?

Chief Judge Nims. In fiscal year 1989 the Court is projecting to expend $1,100,000 for automation in accordance with the recently completed automation study.

NUMBER OF TRIAL WEEKS

Senator DOMENICI. For 1990, a trial program of 400 weeks (230 weeks of trial session and 170 weeks of small tax case sessions) is proposed. How does this compare with your trial program in each of fiscal year 1988 and 1989?

Chief Judge Nims. In fiscal year 1988 actual trial weeks were approximately 500 and in fiscal year 1989 the Court projected a total of 400 weeks of trial sessions.

CASE INVENTORY

Senator DOMENICI. Even though the court's workload data indicates the total inventory of cases declining from fiscal year 1987 to fiscal year 1990, it also shows an increase in cases filed and a decrease in cases closed in fiscal year 1989 and 1990 as compared to fiscal year 1988 -- a projected increasing of the gap between filings and closings from fiscal year 1988. Why is this the case?

Chief Judge Nims. Our estimate of slightly increased filings is based on the new jurisdiction given the Court in the Technical and Miscellaneous Revenue Act of 1988. Since the Court has substantially reduced its inventory of cases, particularly in the tax shelter area, we do not anticipate as many closings. This is due to the fact that we are no longer receiving large numbers of related tax shelter cases.

Senator DOMENICI. Even though cases closing will exceed filings, you will be slipping from the success you've experienced in

fiscal year 1988. Why aren't you requesting the resources to prevent this from happening?

Chief Judge Nims. The Court does not believe that additional resources are necessary at this time.

RELATION BETWEEN DETERMINATIONS AND REDETERMINATIONS

Senator DOMENICI. Your justification indicates that the amount of deficiencies redetermined by the Court in all cases closed during fiscal year 1988 was $1.3 billion, reflecting a Government recovery rate of 19%. Last year, the Court testified that the Government recovery rate in cases redetermined in fiscal year 1985 was 32.7%; in fiscal year 1986, 22.7%; and in fiscal year 1987, 28.3%. What was the total IRS determination amount for cases closed in fiscal year 1988?

Chief Judge Nims. The total IRS determination for cases closed in fiscal year 1988 was $6,920,835,250.

Senator DOMENICI. Is there any relationship between IRS determinations and Court redeterminations?

Chief Judge Nims. There is no direct relationship between IRS determinations and Court redeterminations. During fiscal year 1988, over 85% of all cases were closed by agreement between the parties. The statistics must be scrutinized carefully because one major tax case can influence the redetermination percentage up or down. Additionally, cases dismissed for lack of jurisdiction do not result in any redetermination of taxes.

LOS ANGELES OFFICE

Senator DOMENICI. The Court opened a regional office in California in fiscal year 1985 since almost 30% of the Court's total cases were originating there. Is this still the case?

Chief Judge Nims. The Court estimates that the number of cases filed in California still approach 30% of the Court's total number of cases filed.

Senator DOMENICI. What percent of the Court's cases originated in California in fiscal year 1988?

Chief Judge Nims. The number of cases originated in California in fiscal year 1988 was 30%.

PERSONNEL

Senator DOMENICI. The fiscal year 1990 appropriations justification indicates that of 350 permanent positions, 14 were unfilled in fiscal year 1988 and 5 will remain unfilled in each of fiscal year 1989 and 1990. Why aren't these positions being filled?

Chief Judge Nims. The number of unfilled positions for fiscal years 1989 and 1990 is based on our experience of retirements, vacancies, and transfers to other agencies. The Court's Detail of Permanent Positions is prepared in accordance with the guidance in section 51.2 of Circular No. A-11 issued by the Office of Management and Budget. The Court's budget estimates reflect the projected unfilled positions.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

STATEMENT OF ROBERT B. HAWKINS, JR., CHAIRMAN

ACCOMPANIED BY:

JOHN KINCAID, EXECUTIVE DIRECTOR

FRANKLIN A. STEINKO, JR., BUDGET AND MANAGEMENT OFFICER

OPENING REMARKS

Senator DECONCINI. Good morning.

Mr. HAWKINS. Senator, how are you?

Senator DECONCINI. I am well, thank you.

Mr. HAWKINS. Good.

Senator DECONCINI. Mr. Hawkins, I am glad to have you here, as Chairman of the Advisory Commission on Intergovernmental Relations. We welcome you here.

Mr. HAWKINS. Watchdog of federalism.

Senator DECONCINI. That is right. Taking good care of us. You may proceed with a summary of your opening statement.

Mr. HAWKINS. All right.

Senator DECONCINI. You may want to introduce those who are with you—Mr. Kincaid and others.

Mr. HAWKINS. John Kincaid on my left is our executive director, and Lin Steinko is our budget and finance officer. I will very briefly summarize the activities of the commission over the last year, Senator. I will talk about how efficiently and effectively we have been operating, and then talk about our budget while we are here.

Senator DECONCINI. OK.

ISSUES AND ACCOMPLISHMENTS

Mr. HAWKINS. One of the best indications of how well an agency is doing is the friends it keeps. One of the things that ACIR has demonstrated this year, as it has in years past, is that every time there is a problem in the Federal system, the Congress or the executive branch or State and local governments or interest groups are the first to call upon ACIR to do the bipartisan work. And that really is our mission. As a bipartisan Commission, our task is to do the best research we can on issues in the Federal system.

Last year the General Accounting Office did a study of mandates and stated that ACIR should do an objective analysis every 2 years of the scope of mandates and how they are impacting on the Federal system.

We have just entered into a 1-year agreement with the Department of Commerce to help them build a clearinghouse to focus on State and local initiatives in productivity, technology, and innovation.

We have just finished a project with the National Conference of State Legislatures on regulating and taxing telecommunications, and I could go on and on with examples of where we have had joint exchanges. Let me say that in terms of impact, we live with kind of a two-edged sword. On the one hand, the Congress has said that we cannot lobby. On the other hand, we find that, for example, the work we did on welfare reform was used by Senator Moynihan in his proposals to reform the welfare system.

The banking committees are using the work we have done on the dual banking system. A Senate committee is thinking of taking the work we have done on homelessness as the basis for hearings, and I think soon the White House will call upon us to work with the Congress and interest groups in trying to come up with a consensus on how, in a period of what we call "cutback federalism," the issue of mandates and Federal roles is going to work out.

This is something that is of great concern to State and local officials, and it is a role that ACIR can play well. Last, let me give you an example that I find most heartening. We recently did a study called "The Organization of Local Public Economies." I know of five regions in the country that are now using this book as the basis to finally try and get some reform in our metropolitan areas, and to get better and more efficient service provision. In fact, tomorrow I will be speaking before a group of local leaders in the San Francisco Bay area who are using this book as the basis for trying to bring about some integration of service delivery while allowing local communities the right to still have the governing function.

We think that is great progress. In the past, whenever we tried to get metropolitan consolidation, it was an either/or kind of situation. Either we are going to have fragmentation or we are going to get rid of all the governments and have one big regional government. This approach has never flown anywhere really. On the other hand, if you say, look, you are going to be able to keep your local governments for policy purposes to determine what kinds of services you want, but we are going to develop a set of regional production organizations that will vary in size, that you can contract with for services, then all of a sudden, a lot of local governments are interested in that idea. So we get more efficient service delivery and we still allow local governments to maintain their governing functions.

So, overall, we had a good year. We see a lot of issues on the Federal horizon that we are going to have to deal with. For example, one of those issues is mandates. Clearly, the *Garcia* trend is bothersome to a lot of States and local communities.

Senator DECONCINI. Do you want to explain what the *Garcia* trend is?

Mr. HAWKINS. Well, in *Garcia,* the Supreme Court overturned *National League of Cities* v. *Usery* and basically said that State and local governments must look to the Congress for the scope of their authority. You do not have to be a great sage of federalism to know that this decision somehow turns the whole concept of federalism on its head. In *South Carolina,* the court basically opened the way for Congress to regulate issuance of tax-exempt bonds.

The recent *Richmond* case basically says to local governments that the Federal courts will determine how they contract. *Richmond* was the minority contracting case, and so there is quite a bit of concern in that area.

PRODUCTIVITY AND STATE CONTRIBUTIONS

Let me talk a bit about productivity. In 1985, the Commission, and I have been chairman since 1985, told staff that we were going to live within the spirit of Gramm-Rudman. We were not going to fight deficit reduction. We were going to do our share. We have had a 53-percent decrease in staff from 32 in fiscal year 1985 to 15. We have had a 40-percent decrease in space. We have had a 52-percent decrease in appropriated revenues.

Senator DECONCINI. How much?

Mr. HAWKINS. A 52-percent decrease in appropriated revenues.

Mr. KINCAID. Since fiscal year 1985.

Mr. HAWKINS. Since fiscal year 1985. We were at $2.1 million, and last year our appropriation——

Senator DECONCINI. Your appropriation was $1,040,000.

Mr. HAWKINS. Yes; OMB recommended $1.275 million for fiscal year 1989. The House appropriated that, but in conference, the Senate version of $1.04 million was——

Senator DECONCINI. Excuse me for interrupting. Go ahead.

Mr. HAWKINS. In spite of the appropriation reductions, last year was the highest year in productivity in terms of reports and recommendations per employee the Commission has ever accomplished. Part of that is because we have been forcing the staff to say things in shorter, clearer English, but also we have been contracting out for research. In other words, rather than having the expertise in-house, we go out and get it at the universities, or we recruit practitioners to do it. Consequently, we have been able to cut our personnel costs.

Thank God for desktop publishing computers because that technology really has allowed us to be more productive. We have also made progress in increasing funding from State governments. We are at $103,550 right now. We think we may get to what, about $125,000 this year.

We think the sale of products will probably get to about $70,000. So we have increased those moneys coming in, but that too is a two-edged sword. We think it is important that States contribute to us, but a number of times, when we come out with a study that some State does not like, all of a sudden we find out next year that they have cut their appropriation to us.

Senator DECONCINI. How much do States contribute?

Mr. HAWKINS. As of right now, $103,550 for this year.

Senator DECONCINI. How much did they contribute last year?

Mr. STEINKO. The total for last year was $111,550.

Mr. HAWKINS. That was the total. We are ahead this year, in terms of where we were at this same time last year.

Senator DECONCINI. You are ahead this year?

Mr. HAWKINS. Yes.

Senator DECONCINI. What do you project or what do you plan for State contributions this fiscal year?

Mr. HAWKINS. About $125,000 is probably what we can get this year.

Senator DECONCINI. And how many States contribute?

Mr. HAWKINS. Last year it was 23. This year 27, I believe, is what we will get in the end.

Senator DECONCINI. What is the smallest and the largest, dollar-wise?

Mr. STEINKO. The smallest is $1,000. The largest is $13,000.

Mr. HAWKINS. We base our requests on a population formula. It is a straight formula, and 2 years ago at the urging of the Congress, we went back to the States and we increased all the requests.

Senator DECONCINI. That was my next question. We asked you to do that.

Mr. HAWKINS. Yes; and we lost a number of States. We are just now getting back to where we were then. The decline has to do in part with adverse fiscal conditions. Our Commission members, I must say, are a great help to us. The other part is that we have a staff member who works probably 50 percent of her time now with the tin cup out, shaking it with the States for money. And so we see a limit to that. Each year, however, we want to try to increase the State funding by 5 to 10 percent.

Senator DECONCINI. Well, when you do a study like this one—— this one is for St. Louis, correct?

Mr. HAWKINS. Not exactly. It is about St. Louis County. We selected it as a case study to examine general principles.

Senator DECONCINI. The State gave you something. Missouri did.

Mr. HAWKINS. No; not for the study per se. Missouri did contribute to ACIR in fiscal year 1988.

Senator DECONCINI. Did the city give you anything?

Mr. HAWKINS. No.

Senator DECONCINI. Did you ask them?

Mr. HAWKINS. No.

Senator DECONCINI. Are you forbidden from collecting from individual governments?

Mr. HAWKINS. It is very hard to collect from cities. We have found that the best thing we do with cities is to sell them our diskettes which have the fiscal data on them.

Senator DECONCINI. This looks like a lot of data that if they did not have they would surely be pleased to have.

Mr. HAWKINS. One of the things we have done, is that we have increased the cost of our publications. But there again, the dilemma that we have is that the price tag reduces outreach. The staff gets mad at me because I, as chairman, can send out freebies, and I think it is very important that those studies get out and get widely distributed. One of our public functions is to disseminate information.

Senator DECONCINI. How do you use the dissemination of information to collect money? Do you get the city to write the State to tell them how wonderful you are and how they sure hope they will increase their contribution?

Mr. HAWKINS. We do a lot of that. We are becoming pros in fundraising. And I do a lot of personal calling myself. Other Commission members do. But what happens is that after you get to a certain level, then all of a sudden the States want to talk about con-

tract research. We are very leery of doing contract research for States because one of the things we have to be able to do is to speak the truth when we see something that we think needs correcting, even if a State does not like it. We do not want to feel dependent on them, so that if we lose their contribution, we are not going to be able to survive as a Commission. So that is why we do not actively pursue contract research with State and local governments.

Senator DECONCINI. Can you supply for the record a couple of examples where that has occurred?

Mr. HAWKINS. Yes.

Senator DECONCINI. I would like examples of where you did a major research project, and then as a result of your study or your recommendations, you lost a contract.

Mr. HAWKINS. Right. Be happy to do that.

Mr. STEINKO. The most significant one was when we recommended that military commissary and store sales become subject to State and local sales taxes. The Governor of Nevada and another Governor decided that because of that recommendation, it was the time to terminate their contribution to ACIR. Both were former military officers.

Senator DECONCINI. I see. They did not look at that very favorably from the State's point of view, obviously.

Mr. STEINKO. That is right.

Mr. HAWKINS. On the whole, however, our State support has been pretty steady, and we think we can build it up. I think where we are, Senator, is that with $1.3 million in appropriations, we can operate as a commission very effectively. And that is what OMB has recommended. At $1.04 million we start running into real problems because, basically, that low amount cuts out the heart of our capacity to do independent research.

Senator DECONCINI. Well, your 1990 budget request shows a $260,000 overall increase over the fiscal year 1989 level. Yet you reduced your FTE's from 19 to 18. So where is the increase going?

Mr. STEINKO. There is no absolute increase. One of the documents provided on page 22 of our justification is a graph of our revenue history. If you take a look at total budgetary resources, the decline has been muted somewhat by the use of the trust fund in retaining an unobligated balance carried forward.

We knew that these cuts were coming from the Congress as stated in the Conference Committee Report, and therefore we tried to husband our resources each year in advance. If you will look at the financial set up for this year, there is no unobligated balance carried forward anticipated for the end of 1989. Therefore, we have no cushion going into 1990.

Senator DECONCINI. Although your compensation estimate for 1990 is $664,000. This is a $14,000 increase over fiscal year 1989 even though you will have less people.

Mr. STEINKO. That is correct. It will be less people. If you notice that the FTE's are always September 30 figures. Those are arbitrary figures. We had more on tap at the beginning of the year. We expect to reach a peak in this quarter and then decline toward the end of the year.

Senator DECONCINI. How do you reconcile the fact that the 1987 continuing resolution and the 1989 appropriations act required funding for the Commission's operation to be cost-shared with the States and others who benefit from the Commission's activities? Those acts provided that beginning in fiscal year 1989, Federal funding for the Commission would be capped at $1,040,000, and additional amounts needed to augment this Federal funding level would be generated through State contributions and increased receipts. Obviously you were not able to do that.

Mr. HAWKINS. We have tried that. We have made a really good faith effort to go out and——

Senator DECONCINI. What you are telling us is that you tried to comply with the directives but that you could not do it?

Mr. HAWKINS. That and——

Senator DECONCINI. It was unrealistic in 1987 when the continuing appropriation funded you——

Mr. HAWKINS. Yes, sir.

Senator DECONCINI [continuing]. That year with this mandate or this directive, not to ask for more than what we provided in fiscal year 1989?

Mr. HAWKINS. Last year we did ask for $1.04 million as requested or mandated. However, OMB came back and did a study, and said that $1.04 million does not sound realistic.

Senator DECONCINI. What did you ask this year from OMB?

Mr. HAWKINS. The same thing, and they have boosted it up again.

Mr. STEINKO. No; we asked for $1.3 million. They approved $1.3 million.

Mr. HAWKINS. Oh, I am sorry. Yes.

Mr. STEINKO. Part of that is due to the fact that we have absorbed all pay increases and we are facing a potentially large rent increase. The building that we occupy has received new zoning from the District of Columbia, and if the owners of the building do not work out an acceptable lease, meaning a significant increase with GSA, then they will convert the building to a commercial building, which also would mean that we would have to move and probably face a substantial rent increase.

Mr. HAWKINS. One of the dilemmas we face, Senator, is that we have reached a peak. There will be small increases on sale of books; there will be small increases in State contributions. Staff came before the Commission at its last meeting and said, "should we start doing contract research for local communities and States."

Although that sounds attractive, and several communities wanted us to come in and do a tax study, I am not sure we want the U.S. Advisory Commission on Intergovernmental Relations getting into local battles on——

Senator DECONCINI. Well, you know, I am not sure either. I do not remember the background of the congressional intent, but I do not think it was to keep you from going to Phoenix and saying, you know, this is the kind of work we did for St. Louis, do you want us to do that for Phoenix, AZ? It is going to cost you $100,000. I am not suggesting or telling you that that is what you have got to do, but I certainly do not think you are barred from that. Do you?

Mr. KINCAID. No; we are not barred from doing that, and we have done some studies of that nature. We have concentrated mostly on State tax studies.

Senator DECONCINI. Have you done some research on State taxes?

Mr. KINCAID. Most recently, Arizona approached us, as a matter of fact, to do their State tax study.

Senator DECONCINI. They pay you, I hope?

Mr. KINCAID. Yes; to pay us. We realized, however, that the scope of the study was too much for us to handle. So instead, we did a small piece of the study. We designed the study for them, and we recommended people they could hire to do it, and they accepted our recommendation. But there is a limit to how much we can handle in that kind of research and still do what we are fundamentally legislated to do by the Congress, which is look at the broader issues of federalism and intergovernmental relations.

Senator DECONCINI. Fine. Thank you very much, Mr. Hawkins.

Mr. HAWKINS. Thank you.

PREPARED STATEMENT AND SUBMITTED QUESTIONS

Senator DECONCINI. We have some questions for the record from Senator Domenici.

Mr. HAWKINS. All right.

Senator DECONCINI. And I will submit some myself for you to answer.

Mr. HAWKINS. Very good. Thank you, sir.

Senator DECONCINI. Appreciate it.

Mr. HAWKINS. This is the most current brochure, Patty, on our services.

Mr. STEINKO. Thank you.

[The statement and questions follow:]

STATEMENT OF ROBERT B. HAWKINS, JR.

Thank you, Mr. Chairman. My name is Robert B. Hawkins, Jr. I am the Chairman and one of three citizen-members of the ACIR. It is a pleasure to be here to discuss the work of the Advisory Commission on Intergovernmental Relations (ACIR) and President Reagan's fiscal year 1990 budget request for the ACIR. The ACIR is included in the flexible freeze category of the Bush Administration's budget. Final decisions concerning programs in this category, as well as other programs, are still to be determined through negotiations between the Administration and Congress.

I first would like to make four brief points about the work of the Commission, which has remained very vital and productive even though Congressional appropriations have declined by 52 percent since fiscal year 1985.

ACIR'S UNIQUE VANTAGE POINT

My first point is the unique vantage occupied by the ACIR in our 200-year-old Federal system. Because the ACIR is an independent bipartisan commission made up of members of the general public, members of Congress, officers of the U.S. executive branch, governors, mayors, state legislators, and elected county officials, the ACIR is uniquely qualified to address the many issues that arise each year in intergovernmental relations. Private citizens and public officials from around the country look to the ACIR as the one national forum where Federal, state, and local government representatives can meet as equals to discuss issues, reconcile differences, and promote cooperation.

Now, moreover, the Commission especially provides a forum for local governments, which have borne much of the fiscal and administrative burden of change in our Federal system, while also experiencing attenuated Federal-local ties. Indeed, it

is not only the federal-local partnership that needs rethinking today, but the whole Federal-state-local partnership. America faces significant challenges in domestic policy and international competitiveness that will require better intergovernmental cooperation and coordination if we are to meet those challenges.

People also look to the ACIR for thorough and objective analyses of policy issues and fiscal developments. This analytic role of the ACIR was acknowledged, for example, in GAO's September 1988 recommendation that the ACIR be asked to prepare a biennial report of the total estimated costs of new mandates contained in legislation passed by the Congress during each two-year session. As another example, the ACIR has provided Federal, state, and local officials with reliable estimates of the revenue potentials of state taxation of out-of-state mail-order sales.

People look to the ACIR as well for pioneering work on the frontiers of federalism. Most recently, for example, this role was recognized by U.S. Supreme Court Justice William J. Brennan, Jr., who commended the ACIR for its 1988 publication of a major collection of cases and materials on state constitutional law. Justice Brennan wrote: "I congratulate you most enthusiastically upon your *State Constitutional*. I'd been hoping for some time that a casebook would be published. With the growing interest in reliance by state courts on their own constitutions, it's been very badly needed." The ACIR has recently devoted attention to state constitutional law because of the rise of "the new judicial federalism."

ACIR'S MULTIFACETED SERVICE ROLE

My second point concerns the many services, intergovernmental links, and public-private connections promoted by the ACIR. Last Spring, for example, the ACIR held a national conference on intergovernmental coordination in state and local responses to homelessness. In the Fall, the ACIR helped to co-sponsor a national conference on homelessness organized by the National Association of Homebuilders. In November, the ACIR co-sponsored a conference with the National Conference of State Legislatures (NCSL) on the taxation and regulation of telecommunications. The ACIR has also been working with the U.S. Department of Agriculture to highlight, as appropriate, the rural and farm implications of issues examined by the ACIR. Presently, the ACIR is playing the principal role in helping the U.S. Department of Commerce to develop the national Clearinghouse on State and Local Initiatives in Productivity, Technology, and Innovation, which was mandated by the *Omnibus Trade and Competitiveness Act of 1988*.

Equally important are the U.S. ACIR's close working relationships with the ACIR counterpart organizations in 28 states. In addition, the U.S. ACIR provides technical assistance to states that are considering establishing a state ACIR or are setting one up. Most recently, the U.S. ACIR also has worked closely with NCSL's Committee on State-Local Relations and the Council of State Government's Intergovernmental Affairs Committee. During the current fiscal year, the ACIR has provided research assistance for major state-local tax studies in Arizona, Hawaii, and Maryland. The National Association of Counties has recommended that the U.S. Department of Justice invite the ACIR to undertake a substantial study of intergovernmental relations and the role of general-purpose governments in the administration of justice. This project would be a follow up to the ACIR's now "classic" 1975 study of the subject.

These are just some of the ACIR's important service activities and potentials. Even where we are not the direct service provider, the ACIR responds to hundreds of inquiries each month from the Congress, other public officials, private citizens, academic institutions, businesses, and the news media—all wanting ACIR materials, referrals to sources of information, or leads to public and private technical-assistance experts. Also, members of Congress, the USIA, and other agencies refer many foreign officials to ACIR, especially from Africa, the PRC, the USSR, Spain, and the European Economic Community—wherever there is interest in decentralization, local liberty, intergovernmental cooperation, or federated union.

ACIR'S SUBSTANTIVE RESEARCH PROGRAM

My third point goes to the heart of the ACIR's capabilities: the Commission's research program. Since 1959, the Commission has published nearly 350 reports. Almost one-third of these have been policy reports containing several hundred recommendations to the Federal, state, and local governments. Over the years, a number of ACIR reports were initiated or supported by the Congress, the White House, or executive agencies. In addition, many Commission recommendations have been included in either proposed or enacted Federal, state, and local legislation.

Despite a 57 percent decline in constant-dollar appropriations and a 44 percent reduction in staff since fiscal year 1985, the ACIR has maintained a robust program of intergovernmental relations research and conferences (see Appendix A on p. 6). Indeed, fiscal year 1988 was the fourth most productive year in the ACIR's 29-year history (see Appendix B on p.22) and the single most productive year per employee in the ACIR's history.

The Commission's research program falls into three general categories: (1) Continual Monitoring and Information Dissemination; (2) Microcomputer Data Services; and (3) Topical Research on Current Intergovernmental Issues. The current research program is summarized in Appendix A of this testimony. Let me simply highlight major features of the ACIR's research.

Under Category I, Continual Monitoring and Information Dissemination, the ACIR publishes:

- An annual two-volume compilation of government finance data called *Significant Features of Fiscal Federalism*, which is widely used in both the public and private sectors;
- An annual report measuring *State Fiscal Capacity and Effort*, which is used by many state legislators and tax commissioners, and which can be used to target Federal aid as suggested, for example, in Senator Kennedy's "Smart Start" bill and a counterpart bill expected to be introduced in the House;
- An annual public opinion poll relevant to intergovernmental relations and current ACIR research;
- A periodic *Catalog of Federal Grant-in-Aid Programs to State and local Governments*; and
- A quarterly magazine called *Intergovernmental Perspective* that reaches more than 20,000 readers and which doubles as an advertising vehicle for ACIR publications.

Category II, Microcomputer Diskette Data Services, was inaugurated in 1985. The ACIR produces computer diskettes on (1) state-local government finances and (2) state government tax revenue. Public officials, researchers, and interested citizens can analyze the data easily for their own purposes because the diskettes take full advantage of the computational power and popularity of Lotus 1-2-3 and Symphony software. The majority of diskette requests come from state and local governments.

Under Category III, Topical Research on Current Intergovernmental Issues, the ACIR published two policy reports and thirteen informational reports in fiscal year 1988. Thus far in fiscal year" 1989, the ACIR has published five informational reports. The ACIR currently has 33 topical research and conference projects under way, plus five regular monitoring activities, and two microcomputer diskette series. These projects are conducted directly or managed through contractors by four professional staff members and one professional temporarily on detail from the U.S. Treasury Department. By increasing our use of contractors in recent years, and by providing careful in-house supervision, we have introduced significant economies into the research process while preserving and continuing to enhance ACIR's record of quality work. I believe that it would be difficult to find many other Federal agencies that produce so much of such high quality on so many diverse topics, per employee and per dollar, as does the Advisory Commission on Intergovernmental Relations. Added to this are the many telephone and mail inquiries, administrative duties, speeches, conference appearances, and marketing activities handled by the research staff.

ACIR'S COMPLIANCE WITH CONGRESSIONAL COST-SHARING DIRECTIVES AND APPROPRIATIONS REDUCTIONS

My fourth point is that the ACIR has conscientiously complied with Congressional directives (1) to raise revenue from state contributions and sales of publications and services, and (2) to live within the appropriation limits for fiscal years 1987, 1988, and 1989 established in the fiscal year 1986 Conference Committee report.

For fiscal year 1987, the Congress provided the ACIR with an appropriation of $1,750,000. Pursuant to the fiscal year 1986 Conference Committee report, the ACIR requested $1,390,000 for fiscal year 1988. The fiscal year 1988 appropriation was reduced by $12,000 to be taken from travel, for a total fiscal year 1988 appropriation of $1,378,000. For fiscal year 1989, the Congress appropriated $1,040,000 to the ACIR, despite an OMB request for $1,275,000. This appropriations decline stands in stark contrast to the growth in many other Federal agency appropriations, the rate of inflation, and annual GNP growth.

The fiscal year 1986 Conference Committee report also directed the ACIR to "aggressively pursue contributions from the several states and increase receipts gener-

ated from the sale of Commission publications." The Commission has conscientiously complied with the Congress' cost-sharing directives. To date in fiscal year 1989, the Commission has realized $96,050 from state contributions (with a goal of $120,000), $22,250 from sales of publications and diskettes (with a goal of $70,000), and $77,770 from contracts, administrative services, and other income. The latter amount includes $65,000 from a single-year, $250,000 research contract, an award that cannot be repeated every year.

We will continue these cost-sharing activities by soliciting increased contributions from the states, selling publications and services, stepping up efforts to secure external research grants, and continuing the kinds of belt-tightening measures reported in previous testimony. To cut costs, we have purchased all leased equipment, cut the number of full-time employees from 27 to 15 over the last 4 years, reduced leased office space from 14,600 square feet in fiscal year 1982 to 8,401 square feet today, purchased labor-saving and cost-reducing equipment, and drastically reduced the number of publications distributed free of charge.

PRESIDENT REAGAN'S FY 1990 REQUEST FOR THE ACIR

These activities show that the Commission has made excellent progress in complying with the Congress' cost-sharing directives and tightened appropriations. At the same time, however, the ACIR's appropriations since fiscal year 1985 have fallen well below what would have been provided under Gramm-Rudman-Hollings cuts. President Reagan's fiscal year 1990 budget request for the ACIR of $1,300,000 is below OMB's 1988 multi-year planning estimate of $1,500,000 for the ACIR in fiscal year 1990. Although President Reagan's fiscal year 1990 request is $260,000 more than our fiscal year 1989 appropriation, our request is still $78,000 less than our fiscal year 1988 appropriation, $450,000 less than our fiscal year 1987 appropriation, and $653,000 (or 33 percent) less than our fiscal year 1986 appropriation. During this time, the ACIR has also absorbed all governmentwide pay increases as well as other required service cost increases.

President Reagan's budget request of $1,300,000 for fiscal year 1990 represents a base level of Congressional support essential for maintaining the mission and viability of the Commission. A lower appropriation would be near fatal for the ACIR. This is so for five basic reasons.

First, fiscal year 1989 marks the first year in the Commission's history that the portion of the ACIR's Congressional appropriation totally under agency control, referred to as discretionary, will be $0. Outside income will provide approximately $51,000 in nondiscretionary funding this year—a first.

Second, nondiscretionary costs, particularly rent, will increase appreciably in fiscal year 1990.

Third, the ACIR's self-generated income cannot compensate for both steep reductions in Congressional appropriations and concomitant increases in nondiscretionary costs. Furthermore, the solicitation of state contributions, sales of publications, and recruitment of grants and contracts divert staff time and other resources from the central research, policy development, and technical assistance missions of the Commission. Under such conditions, the ACIR also faces a possible exodus of top-flight research personnel to universities and to other agencies and institutions that support research and related activities.

Fourth, the Commission has economized to the bone. The ACIR's high level of efficient productivity cannot be maintained if there are further reductions in staff or space. We have reached the equilibrium point where declining resources intersect with, and begin to reduce, rising productivity.

Fifth, given that the ACIR's research must cover fiscal, economic, institutional, historical, and legal issues on diverse topics, the Commission needs a minimum mix of expert staff analysts to conduct research, supervise contract research, and respond to inquiries. Further reductions in research staff would require the ACIR to cut, not single projects, but whole fields of research and information services. On top of this is the reality that more than 60 percent of the ACIR's research is now funded by external income.

CONCLUSION

During the 1980s, the ACIR has been a cooperative partner in Congressional and Administration efforts to reduce spending and promote efficiency in the Federal Government. We believe that the Commission has behaved in an exemplary fashion by reducing spending, generating outside revenue, and increasing productivity. Therefore, I urge you to appropriate $1,300,000 for the ACIR in fiscal year 1990. This request represents a minimally necessary and realistic level of Congressional

places under consideration for case examination are Indianapolis (a metro area with a long history of consolidating certain government functions), Minneapolis-St. Paul (a decentralized metro area that has experimented with certain metropolitan wide planning and fiscal sharing programs), and Washington, DC-Maryland-Virginia (an area that is not only very governmentally decentralized, but which also overlaps state boundaries)

Current Status: Development of project design and exploration of funding sources is under way.

Expected Completion: Research completion is tentatively scheduled for September 1990.

IV. Possible Future Research Projects

The Commission is beginning a review of its present and future work programs. It is likely that the continuing projects will remain in place, but the topical research projects will probably reflect some new directions in both our public finance studies and our more general government policy research. Projects remaining uninitiated in the Commission's three-year work program adopted in June 1987 include the following:

Government Finance Research

- Interjurisdictional Tax and Policy Competition, Phase II
- State-Local Revenue Sharing and State Aid to Cities and Counties
- Use of Major State-Local Tax Bases: Implications for the Size of the Public Sector, Tax Rates, and the Incidence of Tax Burden
- State Business Climates: Measurement and Efficacy

Government Policy Research

- A Decade of Change in American Federalism: 1978-88
- Reconsidering Theories of Federalism: Cooperative, Redistributive, and Sorting-Out
- State Court Recognition of Local Autonomy
- Federal and State Compliance with National Mandates: Environmental Standards
- The Role of the National Guard in Protecting the Nation and the States
- Immigration and Federalism: Costs, Civil Liberties, and Intergovernmental Tensions
- Federalist Approaches to Democracy and Economic Development Abroad: Does American Foreign Policy Preach What Americans Try to Practice?
- Antitrust Policy in the Federal System
- Prisoner Litigation in the Federal Courts: Is There a State Solution?
- Coordinating Governments in the Federal System for Effective Drug-Abuse Law Enforcement
- Stewardship, Property Rights, and Intergovernmental Influence on Land Use
- Statewide Information and Data Networks
- State Assumption of Local Functions

Conferences

- When State and Local Governments Serve as "Robin Hoods"
- Federal Grant Formulas: Matching Variables and Structures to Objectives
- Benefit Capture and the Financing of Local Government: A Changed Philosophy or Old Wine in New Bottles?
- State-Local Relations: A Reconnaissance
- Intergovernmental Approaches to Work Force Preparation

Given tightened resources, it will be necessary for the Commission to forego some of the above projects. At the same time, however, a major reason for undertaking a review of the research agenda is to take account of changing issues and trends in intergovernmental relations. Other topics that may be considered in revising the Commission's work program include: (1) state and local implementation of welfare reform; (2) public versus private roles and intergovernmental responsibilities in long-term health care; (3) measuring local government fiscal capacity; (4) measuring state mandate costs; (5) workers' compensation programs; (6) taxation of energy; (7) local housing needs and intergovernmental responsibilities; (8) financing transportation; and (9) intergovernmental coordination in solid waste disposal. In the next several months, the Commission will conduct a number of public thinkers' sessions to solicit wide-ranging input on issues that might be addressed by the Commission.

support that takes into account both (1) the desire of the Congress to have the Commission raise additional revenue from other sources and (2) the ability of the Commission to raise such revenue at a level and in a manner that does not injure the Commission's ability to fulfill its Congressionally established intergovernmental mission. This appropriation would enable the ACIR to maintain its high rate of productivity, high quality research and public service program, and respected forum for airing and resolving issues in our Federal system. The need for the ACIR is as great as it has ever been because the need for a strong, equitable, and efficient Federal system in America is as great as ever.

Thank you for this opportunity to describe our mission and our commitment to you. I will be happy to answer any questions.

Appendix A

RESEARCH PROGRAM AND PROJECT STATUS REPORT

I. Continual Monitoring and Information Dissemination

Project Name: Catalog of Federal Grant-in-Aid Programs to State and Local Governments.

Initiation: Approved by the Commission as a report issued every two or three years under the general mandate of the ACIR to collect and disseminate information relevant to intergovernmental relations. The first edition was issued in October 1977 as one volume of a multivolume study entitled the *Intergovernmental Grant System: An Assessment and Proposed Policies*.

Assigned Staff: Bruce D. McDowell and Albert J. Richter (Contractor).

Description: This catalog lists and describes each program of federal grants to state and local governments that is actually funded for the fiscal year covered by the catalog. The characteristics described include the type of grant (revenue sharing, block grants, or categorical grants), the method of allocating funds (eligible recipients, formula elements, discretionary authority), budget function and subfunction classifications, and other items. This catalog has been one of ACIR's best sellers.

Current Status: The 1987 edition (36 pages) was published in August 1987. Research for the FY 1989 edition began in February 1989.

Expected Completion: The FY 1989 edition will be published in August 1989.

Project Name: Changing Public Attitudes on Government and Taxes (Annual Public Opinion Poll).

Initiation: Approved by the Commission in 1972.

Assigned Staff: Bruce D. McDowell, Debra L. Dean (Contractor), and The Gallup Organization (Contractor).

Description: Since 1972, ACIR has commissioned a public opinion poll on government and taxes. Two questions have been asked every year, and the responses to those questions provide a unique measure of long-term trends in public opinion on federalism and taxes. Other questions are asked at intervals, or are designed to meet the needs of current ACIR research projects. Polling is done by personal interviews by the Gallup Organization; results are summarized by ACIR staff. Results of the poll appear in newspapers, magazines, and other outlets around the country.

Current Status: Polling for the 1988 survey was done in June 1988. The 1988 poll was expanded to 13 questions from 11 in 1987 to follow up on key findings of the National Council on Public Works Improvement relevant to intergovernmental relations. The poll is expected to return to its usual length in FY 1989 and FY 1990.

Expected Completion: *Changing Public Attitudes on Government and Taxes—1989* is expected to be published in September 1989.

Project Name: *Intergovernmental Perspective* (quarterly magazine).

Initiation: Approved by the Commission in 1974.

Assigned Staff: Joan A. Casey and John Kincaid.

Description: This is a glossy magazine of 30-40 pages ordinarily published four times a year. The magazine contains articles, points of view, and research reports about current issues in federalism and intergovernmental relations. Also included are news notes about the ACIR and about publications and microcomputer data diskettes available from ACIR. The magazine serves a constituency of more than 20,000 citizens, public officials, business people, and academics.

Current Status: Issues for FY 1989 have been planned and articles are being prepared for these issues.

Expected Completion: The magazine will appear four times in FY 1989 and four times in FY 1990.

Project Name: Significant Features of Fiscal Federalism, 1989 Edition.

Initiation: Approved by the Commission as a report issued annually under the general mandate of the ACIR to collect and disseminate information relevant to intergovernmental relations.

Assigned Staff: Robert D. Ebel, Clay Dursthoff (Contractor), and James Ortbal (Intern).

Description: ACIR published *Significant Features of Fiscal Federalism* periodically (under different titles) from the Commission's inception through 1977. The report has been updated and

issued annually since 1977. Among the most widely used of ACIR's publications, *Significant Features* presents data and information on national, state and local revenues, expenditures, tax rates, public sector employment and earnings, and additional topics that vary from year to year. The report provides timely basic information that is often used as a basis of analysis by members of Congress, state legislatures, federal agencies, special federal and state tax and expenditure study Commissions, citizen groups, and the media. To ensure the timeliness of the data, *Significant Features* is issued in two volumes. Volume I contains information on tax rates for federal, state, and local governments and is issued in time for state and local policymakers to use in new year policy decisions. Volume II presents data on federal, state and local government revenue and expenditures, including tables on revenues by source, expenditures by function, and state-by-state rankings. The 1989 Volume I edition includes updated tables presenting results of a survey of state revenue departments relating to income taxation and property tax relief. The 1989 edition of Volume II of *Significant Features* will contain expanded narratives analyzing the data presented.

Current Status: The 1989 Volume I edition was published in January. Volume II is in preparation

Expected Completion Volume II of the 1989 edition is scheduled for publication in July 1989.

Project Name: State Fiscal Capacity and Effort, 1989 Edition.

Initiation ACIR research into improving the measurement of state-local fiscal capacity began in 1962 with the staff report, *Measures of State and Local Fiscal Capacity and Tax Effort*. That report was the first to present estimates of the Representative Tax System (RTS), an alternative to per capita income as a measure of state and local fiscal capacity. In 1982, the full Commission recommended that the federal government use a fiscal capacity index such as RTS and that the estimates be prepared periodically. In 1985 the ACIR developed a more comprehensive measure, the Representative Revenue System, and now produces annual estimates under both measures.

Assigned Staff Carol Cohen and Price Waterhouse (Contractor).

Description This research examines the variation among state governments in their abilities to raise revenues to support public services. ACIR's work has focused on developing improved measures of fiscal capacity that relate to the underlying economic base of the economies of each of the fifty states and the District of Columbia. The annual reports have also presented and discussed the uses and limitations of alternative fiscal capacity measures, such as per capita income, gross state product, and total taxable resources. Though technically derived, the ACIR estimates of state fiscal capacity and effort (a measure of the degree to which available fiscal resources are actually utilized by each state) are presented in their final form in a readily understandable manner. As a result, the RTS and RRS have become two of the most widely used benchmarks for monitoring trends in state fiscal health and for identifying whether a particular state is "under" or "over-utilizing" a particular revenue source relative to a national average. In addition, since the ACIR measures provide a reliable and currently produced tool for comparing the states with respect to their own-source fiscal capacities and revenue-raising efforts, they may be used in the design of targeted federal grant programs. Legislation using the ACIR fiscal capacity estimates for this purpose was introduced in the 100th Congress and has been reintroduced in the 101st Congress.

Current Status The report containing estimates based on 1986 data has been sent to the printer. Planning for the next volume (1987 data) is under way.

Expected Completion The report is expected to be published in early March 1989.

II. Microcomputer Data Services

Project Name: State-Local Government Finance Diskettes.

Initiation The state-local government finance diskettes were approved by the Executive Director in October 1985, under the general mandate of the ACIR to collect and widely disseminate information relevant to intergovernmental relations. The diskettes are prepared annually in order to serve two purposes. First, they organize basic U.S. Bureau of the Census data in a manner that permits federal, state, and local government personnel, as well as others involved in intergovernmental analysis, to carry out a wide range of data manipulations in support of policy research. Second, the diskettes provide the data from which the ACIR produces the annual two-volume set of *Significant Features of Fiscal Federalism*.

Assigned Staff Robert D. Ebel, Clay Dursthoff (Contractor), and Michael Lawson (Contractor)

Description The set of six state-local diskettes contains data for 216 expenditure classifications and 117 revenue classifications that are collected by Census, as well as population and income data for the 50 states and the District of Columbia. By formatting this data as an extension of *Significant Features*, users can examine state-by-state fiscal trends for state and local governments combined, and/or construct data bases for state governments

only and local governments only. At present, diskettes are available for fiscal years 1983 through 1986. The set of FY 1987 diskettes will be completed by July 1989.

Current Status: The basic Census data have been made available, and the reformatting task is under way.

Expected Completion: Diskettes are expected to be available in July 1989.

Project Name: State Government Tax Revenue Diskettes.

Initiation: The state government tax revenue diskettes were approved by the Executive Director in May 1987 under the general mandate of the ACIR to collect and disseminate information relevant to intergovernmental relations. The state government tax revenue diskettes also serve as an extension of the annual tax rate volume of *Significant Features of Fiscal Federalism*.

Assigned Staff: Robert D. Ebel, Clay Dursthoff (Contractor), and Michael Lawson (Contractor).

Description: This series contains the same set of classifications of tax revenue for the states as the state-local government finance diskettes. The distinguishing feature of the state tax revenue series is that Census makes these data available six months earlier than the state—local numbers. The series contains data only for state governments. It does not contain local government data or state-by-state-totals for state and local governments combined. The series also excludes information relating to non-tax revenues (users charges, miscellaneous general revenue, and federal grants).

III. Topical Research Projects

A. Projects Near Completion

Project Name: Congress, the States, and Federalism.

Initiation: Approved by the Commission in June 1987.

Assigned Staff: John Kincaid.

Description: This series of reports addresses concerns about the proper balance of power and authority in the American federal system that have grown out of a decade of studies by the Commission and recent deliberations. Indicators of imbalance are presented along with a range of constitutional options for achieving better balance. The Commission is working with the Council of State Governments and the National Conference of State Legislatures, at their request, to develop a consensus on potential reforms.

Current Status: Three reports have been published.

Expected Completion: Publication of the final report is expected in March 1989.

Project Name: Local Revenue Diversification: Sales Taxation.

Initiation: Commission adopted work plan in March 1983.

Assigned Staff: Carol Cohen and Holly Ulbrich (Contractor).

Description: This is one of four reports designed to examine the structure and effects of local non-property taxation. The first two reports—User Charges and Income Taxation—were published in 1987 and 1988 respectively. The local sales tax report is near completion. This report presents new information regarding the growth, structure, and revenue significance of local sales taxes used in various U.S. municipalities (including some large city data), counties and certain special districts. The report describes the nature of these taxes and provides a discussion of their likely economic impacts. Although the report will be of primary interest to practitioners of state and local taxation, the report will also provide some information that is relevant to the present congressional discussions regarding the pros and cons of adopting a national sales tax (e.g., the effect on the competitiveness of a jurisdiction that uses a sales tax vis-a-vis a nonsales tax jurisdiction).

Current Status: A draft is being edited for publication.

Expected Completion: The report is scheduled for publication in late March 1989.

Project Name: Readings in Federalism.

Initiation: Approved by the Commission in March 1987.

Assigned Staff: Joan A. Casey.

Description: This booklet will present a collection of readings from the Commission's quarterly magazine, *Intergovernmental Perspective*, for Bicentennial and classroom use.

Current Status: Preparation of this booklet is nearly complete.

Expected Completion: Publication is expected in March 1989.

Project Name: Residential Community Associations.

Initiation: Approved by the Commission in June 1987.

Assigned Staff: Bruce D. McDowell, Debra L. Dean (Contractor), and Ronald J. Oakerson (Contractor).

Description: This report will describe and analyze the growing number of residential community associations that take on responsibilities for public facilities and services, as well as for certain regulatory activities generally associated with local government. The report will further identify key issues in relations between these "private governments" and local and state governments. It will be based upon nine papers presented at a two-day conference held by the Commission in June 1988, and on a questionnaire survey of associations throughout the nation. This rapidly growing phenomenon now affects about 12 percent of the nation's population.

Current Status: The tasks of editing the conference papers and tabulating the questionnaire survey are complete. Introductory and concluding chapters are nearly complete. The Commission has adopted findings and recommendations, and has authorized publication.

Expected Completion: Publication is scheduled for March 1989.

Project Name: State Taxation of Banks: Issues and Options.

Initiation: Approved by the Commission in June 1987.

Assigned Staff: Robert D. Ebel and Sandra B. McCray (Contractor).

Description: This is the second of a two-part examination of the intergovernmental implications of recent developments in the U. S. banking industry. The focus of the first report issued in September 1988 was on the regulatory aspects of the industry. This second part focuses on the judicial and economic implications of the taxation of banking in the context of the emergence of new forms of banking (e.g., "branchless banks" and "non-bank banks") and the proliferation of regional, in some cases, nationwide interstate banking. The key issues, which are certain to be the focus of future litigation (in federal as well as state courts) and of intensive policy debate throughout the fifty states, include those of determining tax situs, establishing jurisdictional rules, and identifying methods for apportioning the income of multistate banking operations among the separate states. The report is not intended to reach definitive conclusions at this time but rather to provide state legislatures and federal officials with analyses of the advantages and disadvantages of various tax options in use or under consideration.

Current Status: A full draft was presented to the Commission at its September 1988 meeting. The draft is in its final stage of revision.

Expected Completion: Publication of the report is expected in March 1989.

Project Name: Federal and State Compliance with National Mandates and Standards: Does the Federal Government Practice What It Preaches? – Access for the Handicapped.

Initiation: Approved by the Commission in June 1987.

Assigned Staff: Bruce D. McDowell and Stephen L. Percy (Contractor).

Description: This study examines federal and state compliance with federal mandates regarding barrier-removal and equal employment opportunities for persons with disabilities. The purpose of the study is to compare the extent and speed of compliance by both the federal government and state-local governments with a view toward identifying mechanisms, incentives, and problems in compliance and ways to improve intergovernmental compliance coordination.

Current Status: The research is complete and the Commission considered the draft report in December 1988.

Expected Completion: Publication is expected in April 1989, pending final Commission action.

Project Name: The Representative (State) Expenditure System: The Neglected Dimension of Fiscal Capacity.

Initiative: Approved by Chairman and Executive Director, July 1988.

Assigned Staff: Robert W. Rafuse, Jr. (Senior Fellow).

Description: The potential ability of a state or local government to raise revenues is a incomplete characterization of its fiscal capacity unless revenue-raising ability is related to the costs of a government's service responsibilities (often referred to as "needs"). Although this relationship was recognized as central to the measurement of fiscal capacity as early as the 1930s, and received attention in ACIR's pervious work on fiscal capacity in the early 1960s, in recent years the ACIR has not explored the cost side largely because of difficulties involved in measurement. In 1986, the U.S. Treasury published a study presenting preliminary estimates of relative state needs derived from a representative expendi-

ture system, an approach that draws from the methodology developed in the Representative Tax/Representative Revenue system. This project will update and refine the 1986 Treasury estimates and explore the possibilities for application of the approach within the states.

Current Status: The research will be presented as a staff report to the Commission at its March 1989 meeting.

Expected Completion: Publication of the report is expected in April 1989, pending Commission action.

Project Name: State Constitutional Law in the Federal System: Shaping a New Judicial Federalism.

Initiation: Approved by the Commission in June 1987.

Assigned Staff: Bruce D. McDowell and Center for the Study of Federalism (Contractor).

Description: This study examines the place of state constitutional law in the federal system in terms of the extent to which state law has been displaced by federal law, the degree to which there are independent spheres of action for state law, and the extent to which state constitutions have come to serve as independent and adequate grounds for state action. Recent actions in this field highlighted by ACIR have already begun to achieve public attention through a feature article in the August 1988 issue of *Governing* magazine.

Current Status: Research is complete and the Commission considered this report in December 1988.

Expected Completion: Publication of the final report is expected in April 1989, pending final Commission action in March.

Project Name: State Mandates on Local Governments.

Initiation: Approved by the Commission in March 1987, at the request of the state ACIRs.

Staff Assigned: Jane Roberts and selected state ACIRs.

Description: Several state ACIRs volunteered to write papers about the experiences in their states with state mandates and reimbursements for state mandates. The U.S. ACIR responded with a pledge to edit these papers and publish them.

Current Status: All of the papers from the states are now in hand and are being edited for publication.

Expected Completion: Publication is expected in April 1989.

Project Name: Survey of State ACIRs.

Initiation: Approved by the Executive Director in 1987 at the request of the state ACIRs.

Assigned Staff: Jane Roberts.

Description: The Commission maintains continuing contact with all the statewide organizations in the nation that have as their principal concern state-local relations. There are 28 such organizations now. Some have structures very much like the U.S. ACIR; others differ. This survey describes the nature and agendas of each of these organizations that act as state counterparts to the U.S. ACIR.

Current Status: The survey is complete. It is being prepared for publication. Some additional examples of successful state ACIR projects are being sought, at the request of the National Conference of State Legislatures, to make this publication of even more practical value.

Expected Completion: Publication is expected in April 1989.

Project Name: Welfare: Designing a More Efficient and Effective Intergovernmental Welfare System.

Initiation: Approved by the Commission in March 1985.

Assigned Staff: John Kincaid and Ronald J. Oakerson.

Description: This report addresses the crucial role that intergovernmental relations plays in welfare programs and in the reform of the American system of welfare. Recommendations for improved federal-state-local relationships are presented in the context of recently enacted federal reforms.

Current Status: The Commission took final action to approve this report in December 1987.

Expected Completion: Publication is expected in May 1989.

Project Name: Interjurisdictional Tax and Policy Competition: Good or Bad for the Federal System?

Initiation: Approved by the Commission in June 1987.

Assigned Staff: Robert D. Ebel and Daphne A. Kenyon (Contractor).

Description: In an era of increasing national concern about the competitiveness of the American economy, combined with the traditional concern on the part of state and local officials to provide a favorable environment for economic growth, the debate over the pros and cons of tax and policy competition (e.g., regulatory authority) among the states and localities will intensify. The debate comes at a time when the evidence of linkage between government incentives and job creation is mixed, and when legitimate arguments can be made both for and against policies that contribute to competition among U.S. jurisdictions. This report provides a thorough review of the extent of fiscal competition among the states, and addresses the arguments as to whether such competition is healthy or destructive for the federal system.

Current Status: Final revisions are being made in response to Commission action and external reviews.

Expected Completion: Report is scheduled for publication in June 1989.

B. Projects in Process

Project Name: Revenue Diversification for Rural and Nonurban Communities.

Initiation: Approved by the Chairman upon the request of the Economic Research Service of the U.S. Department of Agriculture that ACIR produce a special report on local revenue generation in nonurban areas.

Assigned Staff: Robert D. Ebel, Richard Reeder (USDA), Larry DeBoer (Contractor), Susan MacManus (Contractor) and Thomas Stinson (Contractor).

Description: In diversifying their revenue sources, rural and nonurban local governments face problems that are much different from other communities. Some communities face pressures from creeping urbanization and urban service demands on rural tax bases, while other communities must grapple with declining property and income tax bases as the agricultural economy shrinks and the area's population declines. The studies in this report will examine the nature of these concerns and then discuss the opportunities and limitations for the generation of own-source revenues in rural areas. This discussion will, in turn, lead to some conclusions regarding the appropriate role, if any, that the federal and state governments must play in providing fiscal support for nonurban America. Accordingly, the report will be of interest to federal and state policymakers alike.

Current Status: The contractors are preparing their first drafts.

Expected Completion: Publication of the report is scheduled for July 1989

Project Name: Setting New Agendas for Intergovernmental Decentralization: The International Experience.

Initiation: Approved by the Chairman in 1987.

Assigned Staff: John Kincaid and others.

Description: This report will publish selected papers from an international conference of local government experts from around the world held by ACIR in Washington D.C. in February 1988. Special funding from the *Government and Policy Journal*, and Virginia Polytechnic Institute and State University assisted with this project. The conference was cosponsored by ACIR, VPI and the London School of Economics.

Current Status: The papers are being edited for publication.

Expected Completion: Publication is expected in July 1989.

Project Name: State Taxation and Regulation of Telecommunications Firms.

Initiation: Approved by the Commission in June 1987.

Assigned Staff: Robert D. Ebel and Sandra McCray (Contractor).

Description: In the past few years powerful technological, economic, and institutional forces have converged in a manner that has dramatically changed the structure of the U.S. telecommunications industry. As a result, state legislatures are having to deal with a complex array of regulatory and tax issues relating to the decline of monopoly power in the delivery of telecommunications services. This report will systematically identify and then address the nature of institutional and economic change within the industry and the related tax issues. Major topics of inquiry include the base, if any, for differential treatment of interexchange (long distance) companies vs. operating companies, the scope of the tax base (e.g., treatment of access charges), and the revenue effects of special (e.g., gross receipts vs. general business taxation of income, property, and purchases of telecommunications firms).

Current Status This study began with a thinkers' session in September 1988, and then built upon information derived from a joint ACIR-NCSL (National Conference of State Legislatures) symposium, which was held in late November 1988 in Washington.

Expected Completion Publication of the report is expected in July 1989, pending form and timing of Commission action.

Project Name: Boundary Review Commissions: Good or Bad for Local Self-Government?

Initiation Approved by the Commission in June 1987.

Assigned Staff Bruce D. McDowell and Debra L. Dean (Contractor).

Description This study examines the operations of state Boundary Review Commissions for the purpose of determining the extent to which they should or should not have veto authority or other authority over the formation of new units of local government or the reorganization of units of local government.

Current Status Research is under way.

Expected Completion Publication of the research is expected in August 1989, pending form and timing of Commission action.

Project Name: Federal Preemption of State and Local Laws and Authority

Initiation Commission adopted work plan in March 1985.

Assigned Staff Bruce D. McDowell and Joseph F. Zimmerman (Contractor).

Description This project follows up on ACIR's major research on regulatory federalism, which was published in February 1984. The current research focuses on a typology of federal methods of preemption of state and local authority and the consequences of various types of preemption for states and local governments.

Current Status Research is complete. The draft report is being reviewed.

Expected Completion The final report is expected to be published by August 1989, pending form and timing of Commission action.

Project Name: How Local Public Economies Work: Equity, Viability, and Service Responsiveness in America's Civil Communities

Initiation Approved by the Commission in June 1987.

Assigned Staff Bruce D. McDowell, Ronald J. Oakerson (Contractor), and Roger B. Parks (Contractor).

Description This study is an extension and expansion of Commission work on local self-government in the federal system. Presently under way is research on a second case study. This study focuses on Allegheny County, Pennsylvania, a highly "fragmented" metropolitan area. Included in the research are examinations of state-local and interlocal relations, the viability of small local governments, and the degrees and ways in which fragmentation and consolidation affect efficiency and equity in the production and provision of local public services. Based upon these two case studies, a final report will be prepared comparing their findings and drawing conclusions about the organization of local governments in metropolitan areas.

Current Status A report on the first case study, St. Louis County, Missouri, was published in September 1988. The first draft of the second case study is nearly complete, and work on the comparative study has begun.

Expected Completion Publication of the Allegheny County case study, together with the comparative analysis, is expected in August 1989, pending form and timing of Commission action.

Project Name: School Financing The Decade Ahead: School Aid Programs: What is In Place and What Has Been Accomplished?

Initiation Approved by the Commission in June 1987.

Assigned Staff Vincent Munley (Visiting Scholar).

Description This report is the first of two Commission activities that focus on issues of school finance. The questions pertaining to school finance—its efficiency, effectiveness, and equity—not only cut across all sectors of our economic and intergovernmental systems, but also are closely linked to the topics of U.S. competitiveness in the world economy and the source of long-run economic growth. This first study will provide an analysis of the basic elementary and secondary school finance systems that are employed in the fifty states. In order to capture the effects of the numerous state court decisions of the 1960s and 1970s, the study will begin with an examination of expenditure trends over the past 25 years, and then proceed to examine the relationship between alternative state financing schemes (e.g., district power equalizing vs. foundation programs) and the level and the geographic distribution of education spending. In addition this study will

consider how current financing systems are likely to affect federal and/or state initiatives designed to improve the quality of education.

Current Status The work began with a thinkers' session in January 1989, and the research is under way.

Expected Completion Publication of this report is expected in August 1989, pending form and timing of Commission action.

Project Name: Local Self-Reliance: Alternative Approaches to Providing Local Public Services.

Initiation Commission adopted work plan in March 1985.

Assigned Staff Bruce D. McDowell and Ronald J. Oakerson (Contractor).

Description This project examines the broad range of possible approaches to providing local public services—including contracting (both private and intergovernmental), franchising, user charges, joint service agreements, and load-shedding—as means of promoting greater local self-reliance. Because of widespread interest in contracting, as well as substantial evidence of efficiencies to be gained from contracting, this mode of service production was selected for special emphasis. After assembling data for a representative sample of all municipalities over 10,000 population in the nation, analysis was conducted to learn more about the conditions under which contracting does and does not work, including an assessment of its fiscal effects on local communities.

Current Status Report is in preparation. An additional set of survey data for 1988 has become available from the International City Management Association, and will be used to enhance this study in combination with new data from the *1987 Census of Governments*.

Expected Completion Publication is expected in September 1989, pending form and timing of Commission action.

Project Name: Federal Mandate Reimbursement.

Initiation Commission adopted work plan in March 1985.

Assigned Staff Bruce D. McDowell and Joseph Zimmerman (Contractor).

Description This report will build, in part, upon GAO's research on state and local experiences in complying with federal mandates and in being reimbursed for the costs related thereto. The report will develop and examine criteria for reimbursement and the appropriateness and adequacy of federal reimbursement practices—present and proposed.

Current Status The research will be conducted during the Spring of 1989.

Expected Completion Publication of the report is expected in November 1989, pending form and timing of Commission action.

Project Name: Local Governments in International Affairs.

Initiation Approved by the Commission in June 1987.

Assigned Staff Bruce D. McDowell and Debra L. Dean (Contractor).

Description This report will analyze the growing involvement of local governments, especially major cities and ports, in international affairs. Such activities as trade missions abroad, "sister city" programs, and local government resolutions concerning foreign policy issues will be examined. Federal, state, and local relationships in these activities, as well as constitutional issues and evaluation of the economic payoffs from such activities will be investigated.

Current Status Preliminary research has begun and a thinkers' session was held in February 1988.

Expected Completion Publication is expected in November 1989, pending form and timing of Commission action.

Project Name: State Governments in International Affairs.

Initiation Approved by the Commission in June 1987.

Assigned Staff Bruce D. McDowell and John M. Kline (Contractor).

Description This project is a larger companion to the research described above under the title of Local Governments in International Affairs. States have become increasingly active in international affairs, especially in sending foreign trade missions abroad and undertaking a variety of activities designed to promote exports from the states, attract foreign firms to establish operations within the states, and allow the states to compete more effectively in world markets. The new emphasis on international competitiveness has spurred this activity. This report will examine legal and constitutional issues involved in state international activity, matters of intergovernmental and interagency coordination, and the economic effectiveness of state international programs.

Current Status The research is under way.

Expected Completion Publication of the research report is expected in March 1990, pending form and timing of Commission action.

Project Name: Water Resource Management in the Federal System.

Initiation: Approved by the Commission in June 1987.

Assigned Staff: Bruce D. McDowell and William L. Blomquist (Contractor).

Description: This project will draw upon original case studies and published research to examine the intergovernmental issues involved in protecting the quality and quantity of ground water in conjunction with the use and regulation of surface waters. Among other things, the study will examine the implications of congressionally proposed new national regulations for state and local regulation of ground water protection and for water users who are organized locally to manage water resources. The key issue will be to evaluate the public and private institutions involved with competition, coordination, and cooperation in the use of these resources, and to comment on proposed national legislation.

Current Status: The research is under way.

Expected Completion: Publication of the research report is expected in March 1990.

C. Projects Initiated in FY 1989

Project Name: Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation.

Initiation: Authorized by the Commission in September 1988.

Assigned Staff: Bruce D. McDowell, Barbara Lipman (Contractor), and David Schaller.

Description: Section 6 of the 1988 Foreign Trade Act requires the Office of Productivity, Technology, and Innovation in the U.S. Department of Commerce to establish and operate a clearinghouse for state and local initiatives on productivity, technology, and innovation. OPTI has asked ACIR to help establish this clearinghouse. In the words of the act, "The Clearinghouse shall serve as a central repository of information on initiatives by State and local government to enhance the competitiveness of American business through the stimulation of productivity, technology, and innovation and Federal efforts to assist State and local governments to enhance competitiveness." Under a contract with the Department of Commerce, ACIR is assisting in the design and initial installation of this Clearinghouse.

Current Status: Research is under way.

Expected Completion: This project will be completed by October 1989.

Project Name: Residential Community Associations: Questions and Answers for Public Officials.

Initiation: Approved by the Commission in December 1988.

Assigned Staff: Bruce D. McDowell and Debra L. Dean (Contractor).

Description: This project will follow up on ACIR's earlier study of residential community associations (RCAs) which are becoming prominent mechanisms for local governance and service provision. This project will provide state and local public officials with easy access to practical answers to the most frequently asked questions about RCAs. Such questions pertain to association relations with local governments, land values and use, local taxes, and public services provided by associations.

Current Status: Preparation of this report is under way.

Expected Completion: This booklet is expected to be published in July 1989, pending Commission action.

Project Name: School Financing In the Decade Ahead: The Intergovernmental Dimension.

Initiation: Approved by the Commission in June 1987.

Assigned Staff: Robert D. Ebel and Vincent G. Munley (Visiting Scholar).

Description: This is the second of a two-part Commission focus on the structure of school finance in the U.S. and the implications of that structure for equity (e.g., distribution of limited resources) and efficiency (e.g., improved quality). As a means of providing an important follow-up to the Commission's research in 1989, the ACIR will conduct a conference addressing a series of issues of importance to state legislators and their staffs, state and federal education department officials, and local school board members and administrators. The topics to be examined include: the institutional nature of the intergovernmental partnership in providing fiscal support for K-12 education; the response of these institutions to a series of state court decisions pertaining to fiscal equalization; and the special financing concerns relating to special places (e.g., inner city vs. rural) and needs (e.g., mathematics and science). The conference will conclude with an examination of how existing financial arrangements might be changed in order to improve the quality of education.

Current Status: A thinkers' session was held on this topic in January 1989. The staff is exploring possible funding sources and joint sponsorship with Lehigh University and the National Tax Association.

Expected Completion: The conference would be held in the December 1989. The proceedings are targeted for publication in July 1990.

Project: Monitoring Developments in the Regulation and Taxation of Banking.

Initiation: Approved by the Commission in September 1988.

Assigned Staff: Robert D. Ebel and Sandra B. McCray (Contractor).

Description: With its recent research on state and federal regulation of banking and state banking taxation, the Commission has identified several areas in which rapid economic and institutional changes are occurring in the nation's financial industry. These changes have significant consequences for banks, consumers, local communities, and state economies. Pursuant to its role as a neutral forum for addressing intergovernmental issues, at its September 1988 meeting, the Commission established, for an initial period of one year, an intergovernmental monitoring group on state regulation and taxation of banking. This monitoring group shall have a membership of seventeen persons who are broadly representative of the state and national interests. A member of the Commission shall chair the group. The monitoring group shall meet twice this year, and report back to the full Commission at its December 1989 meeting. The group's report shall include (a) a review of the year's developments in taxation of financial institutions, including an evaluation of the experiences of the states that have recently enacted legislation and the status of the debate in certain key jurisdictions considering reform of their state tax laws; (b) a summary of the status of state bank regulation and its implications for the financial services industry; and (c) a discussion and evaluation of federal preemptive legislation as it affects state bank tax and regulatory power and authority.

Current Status: An initial meeting is planned for late March 1989.

Expected Completion: The group shall report back to the Commission at its December 1989 meeting.

D. Projects Planned for Initiation in FY 1989 and FY 1990

Project Name: A Conference on Federal Grant Formulas: Matching Variables and Structures to Objectives.

Initiation: Approved by the Commission in June 1987.

Assigned Staff: Robert D. Ebel and Robert W. Rafuse, Jr. (Senior Fellow).

Description: The outlook for continuing federal budgetary stringency places a high premium on efforts to improve the efficiency of the existing federal grant system. As the 1970s work of the ACIR showed, the current system of aid has grown haphazardly, often resulting in a system that is designed in a manner that hinders rather than promotes program objectives. A 1986-87 study by the U.S. Treasury made important contributions to the grants efficiency literature, but it failed to follow through with policy analysis and recommendations for changes in the system (its work was abandoned when the General Revenue Sharing program expired). Current research on federal formula design is under way at the U.S. Government Accounting Office (GAO), but its scope is limited to general purpose assistance. Accordingly, it is appropriate that the ACIR build on its earlier work as well as the work at Treasury and GAO to provide analysis and set of recommendations regarding the role of equalization in a federal system, formula considerations, and the criteria for modification (including elimination or expansion) of grant programs.

Current Status: Funding proposal has been submitted to the Ford Foundation and other sources are being explored by staff.

Expected Completion: The conference is set for June 1989, if funding is forthcoming; report is expected to be published in December 1989.

Project Name: The Property Tax in a Changing Fiscal Environment

Initiation: Approved by the Executive Director in January 1989; subject to Commission approval.

Staff Assigned: Robert D. Ebel and a contractor to be selected.

Description: Over the last decade the federal system has been undergoing a significant realignment of spending and revenue raising responsibilities, a process that has accelerated in recent years. An important consequence of that realignment has been an increased role for local governments. The local property tax has been and still is the single largest generator of local revenues. At the same time, the circumstances effecting the property tax have changed significantly. These include a period of historically high rates of inflation, a tax revolt (with California's Proposition 13 in 1978 serving as a key point for departure), and new empirical evidence relating to the distribution and local economic development implications of the tax. Despite these developments, there has been no comprehensive review of how the property tax and local property tax-related policies have changed over the past decade and the implications of these changes for determining future directions in the finance of local governments. Such a study will examine topics on alternative structures of the tax (e.g., differential treatment of land vs. improvements),

and the role of the states in strengthening the tax (e.g., the efficiency effects of direct vs. indirect tax relief programs). In addition, the interplay between the property tax and alternative sources of local revenues (e.g., impact fees) and between the tax and the growth of new local institutions—governmental (e.g., special districts and authorities) and private (e.g., residential community associations) will be examined.

Current Status: The ACIR is negotiating a role as a participant in a study to be partially funded by the Lincoln Institute for Land Policy.

Expected Completion: Research is expected to be completed by October 1989.

Project Name: State-Local Revenue Sharing and State Aid to Cities and Counties.

Initiation: Approved by the Commission in June 1987.

Assigned Staff: Robert D. Ebel.

Description: Due to federal budgetary stringency and a reevaluation by the Congress of the appropriate federal role in the finance of state and local expenditures, the states and localities have not only experienced recent sharp cuts in federal aid but also have taken on an increased responsibility for the provision of public goods and services. Although all governments have been affected by these developments, localities have been particularly affected on both sides of the budget equation. Accordingly, several critical questions arise: What is the rationale for state aid? What are the criteria for evaluating state-to-local aid programs? To what extent are states willing or able to make up for the gaps left by the termination of direct federal aid to local governments? What type of state aid structure is most efficient and/or equitable? Is general rather than targeted aid to be preferred for specific functions such as education? What is the relationship between granting state aid vs. giving general purpose localities greater flexibility in generating their own revenues?

Current Status: Development of project design and exploration of funding sources is under way.

Expected Completion: Research completion is tentatively scheduled for June 1990.

Project Name: A Conference on Benefit Capture and Financing of Local Governments.

Initiation: Approved by the Commission in June 1987.

Staff Assigned: Robert D. Ebel.

Description: In the early to mid-1970s a significant, and so far, sustained development began: a movement toward increased reliance on beneficiary charges for the finance of local government. This trend is evident from two perspectives. The first is the growth in the importance of user charges, which rose from an amount equal to 46 percent of total local taxes in 1977 to more than 65 percent by 1985. The second is the growth in the relative fiscal importance of the fastest growing type of government in the U.S., special districts and authorities. With respect to the provision of local public works, for example, total special district and authority expenditures in support of public works provision increased from $7.6 billion in 1977 to $13.1 billion in 1983. This trend raises several intergovernmental and public policy issues: What are the fundamental forces that explain increased reliance on benefits finance? Will the trend continue or can we expect a leveling off or even a decline? What is the set of activities being undertaken by special districts and authorities, and what kind of taxing authority do these institutions have? When user fees are levied by special districts and authorities, is there a concern that even though the efficiency of local financial arrangements are improved there is a loss of political accountability? Will a widespread use of fees aggravate tax regressivity?

Current Status: Development of project design and exploration of funding sources is under way.

Expected Completion: Conference is tentatively scheduled for September 1990.

Project Name: Interjurisdictional Tax and Policy Competition and Cooperation: Metropolitan Area Case Studies.

Initiation: Approved by the Commission in September 1988.

Assigned Staff: Robert D. Ebel.

Description: At its September 1988 meeting, the Commission authorized additional research on the topic of interjurisdictional competition and cooperation if external funding can be obtained. The study will identify and analyze competition and cooperation among governments in three selected metropolitan areas. These case studies will focus on the tax, expenditure, service, regulatory, and economic development dimensions identified by the ACIR overview study (see III-A above). The purpose of this study is to identify potential lessons of federal-state-local relations in the cases selected that would be applicable for other areas of the country. For example, the manner in which federal and state laws, regulations, and aid to local governments either help or hamper the competitive ability of particular local governments would be examined. Another important topic of current interest is whether states and the federal government impose constraints on their local governments that limit their capacity for efficient competition. At present the three

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

Cost Analysis of FY 1990 Budget

In FY 1989, three object classifications, the costs of which are not entirely under agency control, will consume not only ACIR's entire appropriation, but also $51,000 of earned income. These object classifications are personnel costs, rent, and communications, utilities, and miscellaneous charges.

The percentages in the table below show how much of ACIR's reduced appropriation is spent on these object classifications in each of the three budget years—PY, CY, BY— despite vigorous ACIR cost control efforts. In FY 1988, nondiscretionary funding accounted for approximately 84% of the appropriation. In FY 1989 there are no discretionary funds within the appropriation. In FY 1990, ACIR is seeking $174,000 in discretionary funding in its appropriation—funds which are used for research and product production.

Expenditure (in $000s)	FY 1988		FY 1989		FY 1990	
	Amount	Percent	Amount	Percent	Amount	Percent
(Appropriation)	1,378		1,040		1,300	
Personnel Costs	639	46.4%	653	62.8%	667	51.3%
Personnel Benefits: Civilian	141	10.2	131	12.6	124	9.5
Rental payments to GSA	274	19.9	232	22.3	260	20.0
Communications, utilities, and miscellaneous charges	73	5.3	75	7.2	75	5.8
Total Expenditures, and as a Percent of Appropriation	1,127	81.8	1,091	104.9	1,126	86.6

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

10-Year Budget Comparison
(in thousands of dollars)

The table below indicates that from FY 1981 projected through the current ACIR appropriation for FY 1989, the absolute amount appropriated for the Commission has decreased by $782,000 or just over 43%. However, ACIR's appropriation has decreased $1,108,000 or 52% from its peak in 1985. This decline stands in direct contrast to growth in other federal agency appropriations, the rate of inflation, and the annual GNP. The decline is significantly, but not entirely, the result of Congressional action. ACIR had been in an absolute dollar appropriation decline for five years prior to the Congressionally directed appropriation reduction. The largest share of the decrease has been taken out of personnel. The part of ACIR's appropriation totally under agency control, referred to as discretionary, has been reduced from $257,000 in FY 1981 to $0 in FY 1989. It should be noted that outside income (sales, contributions, honoraria, and reimbursements, etc.) will provide $51,000 in nondiscretionary funding in FY 1989, a first.

Fiscal Year	Amount In Presidential Budget	Amount Appropriated	Personnel Benefits Rent, Communications and Miscellaneous Charges	Discretionary Portion of Appropriation*	
				In Current Dollars	In Constant* Dollars
1981	1,884	1,822	1,447	257	144
1982	1,998	1,763	1,502	261	126
1983	1,920	1,940	1,505	435	202
1984	2,016	2,016	1,564	452	202
1985	2,131	2,148	1,843	305	124
1986	2,058	1,953	1,456	497	174
1987	1,750	1,750	1,116	634	222
1988	1,390	1,378	1,127	263	80
1989	1,275	1,040	1,091	-51	. . .
1990	1,300		1,126	174	. . .

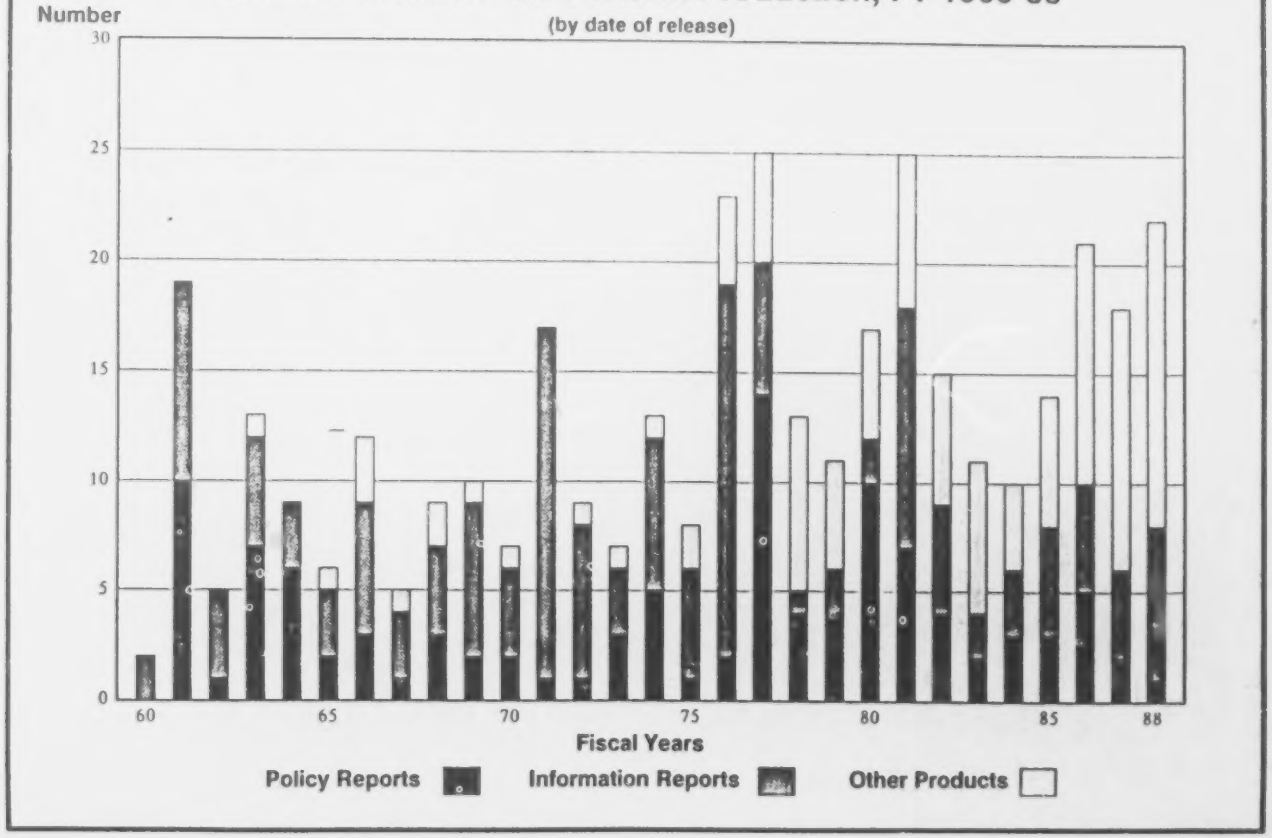
*Includes obligations for printing, contractors (predominantly research), supplies, travel, and equipment.

Notes:
1981—Staff reduced by one full-time position.
1982—Staff reduced by two full-time positions.
1983—Deliberately sacrificed personnel vacancies for computer equipment.
1986—House-directed reduction begins with status quo appropriation. Staff reduced by four full-time positions.
1987—Staff reduced by five full-time positions.
1988—Staff reduced by two full-time positions.

Appendix B

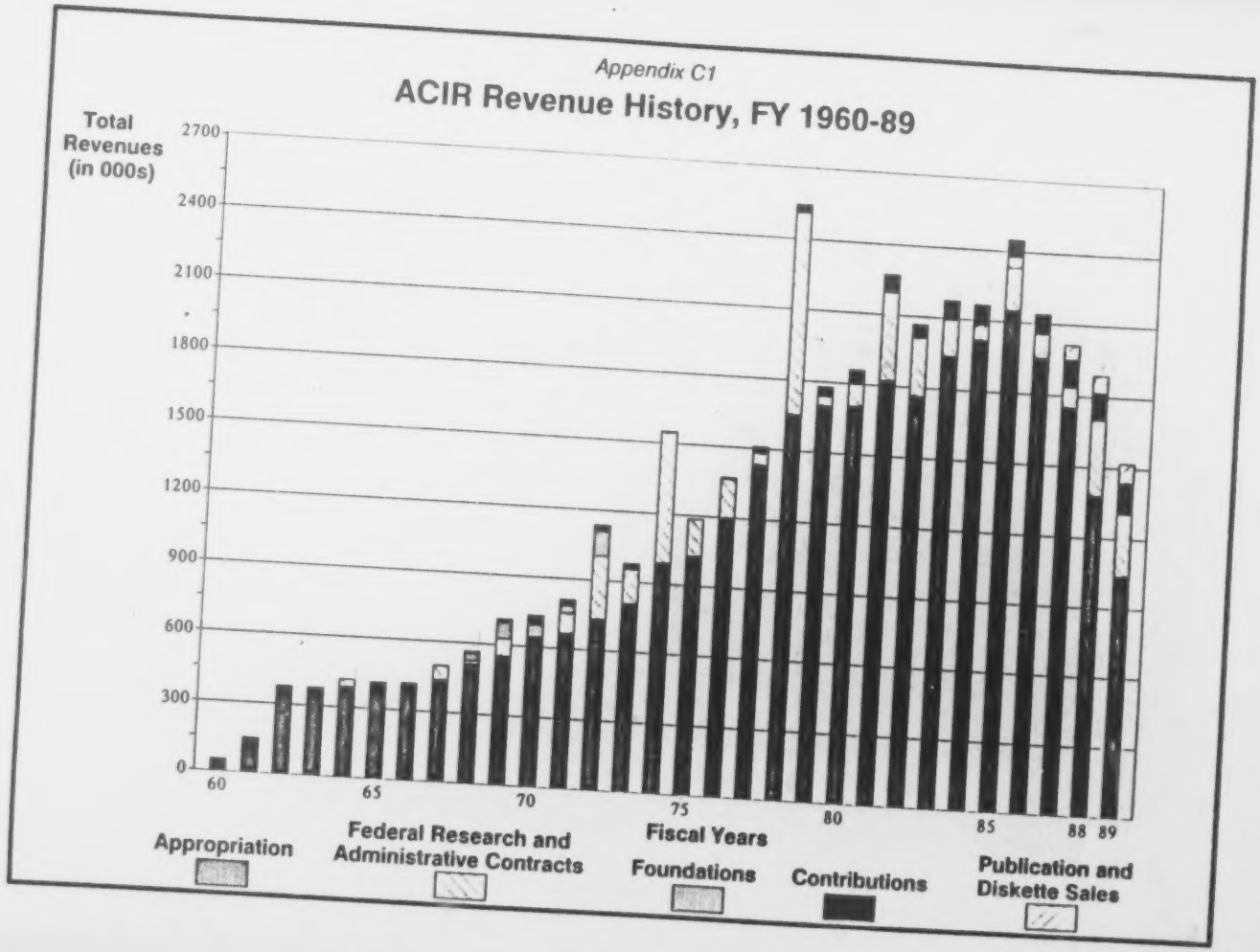
ACIR Publication and Product Production, FY 1960-88

(by date of release)



Appendix C1

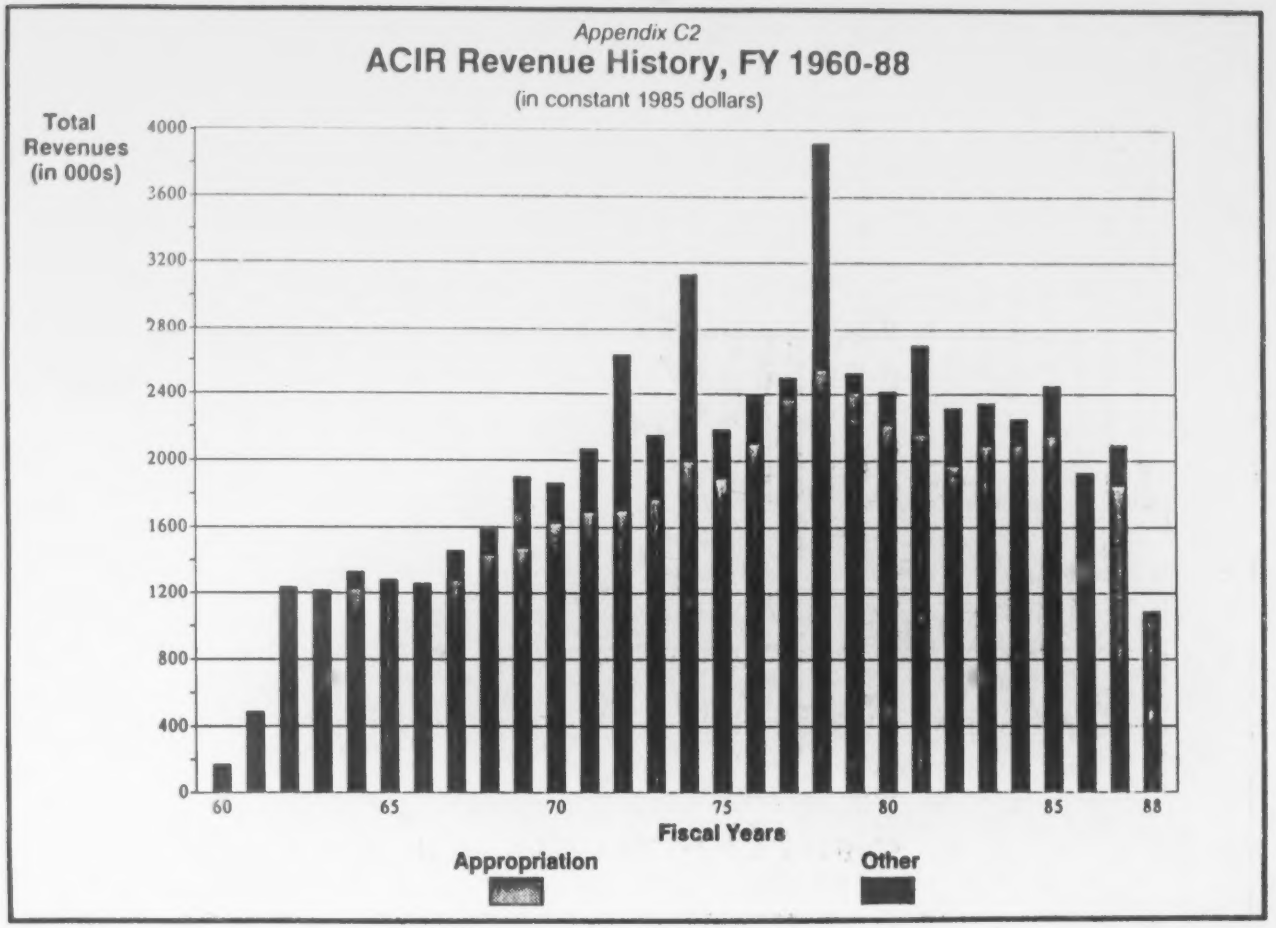
ACIR Revenue History, FY 1960-89



Appendix C2

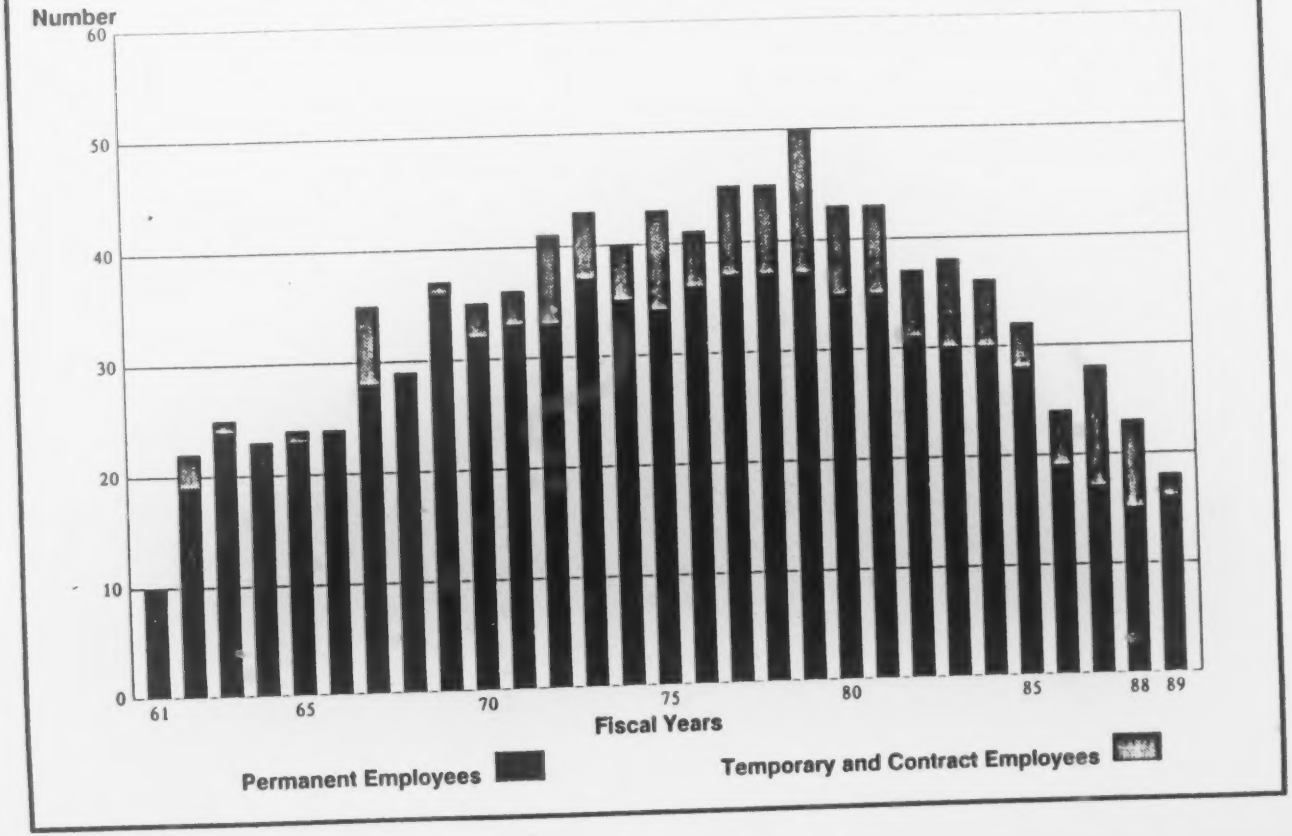
ACIR Revenue History, FY 1960-88

(in constant 1985 dollars)



Appendix D

ACIR Personnel History, FY 1961-89



ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

BUDGET REQUEST FOR FISCAL YEAR 1990

SALARIES AND EXPENSES

Budget Request and Justification for Fiscal Year 1990

1989	Salaries and Expense Appropriation	$1,040,000	
	Indicated Change	+$260,000	
1990	Salaries and Expense Appropriation Request		$1,300,000

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended, 42 U.S.C. 4271-79, [$1,040,000], and additional amounts not to exceed $200,000, collected from the sale of publications shall be credited to and used for the purposes of this appropriation. *(Independent Agencies Appropriations Act, 1988.)* — $1,300,000

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Federal Funds

General and special funds:

SALARIES AND EXPENSES

The Advisory Commission on Intergovernmental Relations (ACIR) is a 26-member independent, bipartisan body. The Commission and its staff examine Federal, state and local trends, events, programs, and finances that affect intergovernmental relations. On request, proposed legislation and executive actions are reviewed to determine their overall effect on the federal system. The Commission also identifies emerging problems of Federal-state-local relations and assists states and localities in anticipating and meeting problems caused by various intergovernmental overlaps and conflicts, and makes recommendations concerning the workings and structural arrangements of governmental units and allocation of responsibilities and revenues among the various levels of government. The recommendations and published reports growing out of the Commission's work are submitted to the executive and legislative branches of Federal, state, and local governments for appropriate action.

Continuing and annual projects of the Commission include assessing the changing public attitudes on government and taxes; publishing annual data on the "representative tax system" for all 50 states; analyzing fiscal disparities; publishing an periodic catalog of federal aid; surveying and identifying trends in state and local finances; monitoring key intergovernmental legislation of federal, state, and local governments; and providing educational and technical assistance to Federal, state, and local governments regarding Commission recommendations.

Nonrecurring projects nearing completion include studies of intergovernmental coordination problems in aiding the homeless, local governance and service provision in fragmented metropolitan areas, intergovernmental aspects of public welfare, balance in the federal system, state-local relations in highway policymaking, interjurisdictional tax and policy competition, state regulation of banks, local revenue diversification, and federal and state compliance with mandates on barrier removal and employment for persons with disabilities.

Other nonrecurring research projects under way or being initiated include state and local international trade and investment programs, state groundwater management, state constitutional law in the federal system, federal preemption of state authority and mandate reimbursement, state taxation and regulation of telecommunications, residential community associations as intergovernmental actors, and state taxation of interstate banking.

Appropriations finance the personnel and personnel-related expenses incurred in the basic day-to-day operation of the Commission.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS
SALARIES AND EXPENSES
Program and Financing (in thousands of dollars)

55-0100-0-1-806		88	89	90
	Program by activities:			
	Direct Program:			
00.01	General administration	945	395	380
00.02	Intergovernmental research	931	645	920
00.91	Total direct program	1,376	1,040	1,300
01.01	Reimbursable program	393	349	95
10.00	Total Obligations	1,769	1,389	1,395
	Financing:			
	Offsetting collections from:			
11.00	Federal funds	-323	-265	-15
14.00	Non-Federal sources	-70	-84	-80
25.00	Unobligated balance lapsing	2		
40.00	**Budget authority (appropriation)**	1,376	1,040	1,300
	Relation of obligations to outlays:			
71.00	Obligations incurred, net	1,376	1,040	1,300
72.40	Obligated balance, start of year	423	404	404
74.40	Obligated balance, end of year	-404	-404	-465
77.00	Adjustment in expired accounts	-8	...	...
90.00	Outlays	1,386	1,040	1,239

Object Classification (in thousands of dollars)

55-0100-0-1-806		88	89	90
	Direct obligations			
	Personnel compensation:			
11.1	Full-time permanent	636	650	664
11.3	Other than full-time permanent	3	3	3
	Total personnel compensation	639	653	667
12.1	Civilian personnel benefits	141	131	124
	Travel and Transportation of persons:			
21.0	Staff Travel	16	12	12
21.0	Commission Travel	25	...	...
21.0	Invitational Travel	31	2	15
22.0	Transportation of things	8	10	10
23.1	Rental payments to GSA	274	232	260
23.2	Communications, utilities, and miscellaneous charges	73	...	75

24.0	Printing and reproduction	84	...	64
25.0	Other services	43	...	23
26.0	Supplies and materials	41	...	50
31.0	Equipment	1	...	...
99.0	Subtotal, direct obligations	1,376	1,040	1,300
11.1	Full-time permanent	93	13	13
12.1	Civilian personnel benefits	19	2	2
21.0	Travel	6	14	...
23.0	Communications, utilities, and miscellaneous charges	1	70	...
25.0	Other services	273	250	80
25.0	Supplies and materials	1	...	...
99.0	Subtotal, reimbursable obligations	393	349	95
99.00	Total obligations	1,769	1,389	1,395

Personnel Summary

55-0100-0-1-806	88	89	90
Direct:			
Total number of full-time permanent positions	16	19	18
Total compensable workyears:			
Full-time equivalent employment	18	19	18
Reimbursable:			
Total compensable workyears:			
Full-time equivalent employment:	...	...	1

Average Grades and Salaries

55-0100-0-1-806	88	89	90
Direct:			
Average IR grade	11.9	12.8	12.8
Average IR salary	$41,071	$40,625	$39,824

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Trust Funds

CONTRIBUTIONS

In FY 1989, these trust funds will, for the first time in ACIR's history, be used to underwrite basic Commission research.

Normally, contributions from state and local governments and nonprofit organizations are used to strengthen the Commission's clearinghouse, information and policy education services to state and local governments, and to improve intergovernmental coordination and relations. Specific items financed by this account include the Commission's quarterly publication, *Intergovernmental Perspective*; printing of Commission reports; summaries of full Commission reports published as the *In Brief* series; and reprints of popular out-of-print but timely Commission reports.

TRUST FUND (CONTRIBUTIONS)

Program and Financing (in thousands of dollars)

55-0100-0-1-806		88	89	90
	Program by activities:			
10.00	Total obligations	56	309	135
	Financing:			
17.00	Recovery of prior year obligations	-13	...	...
21.40	Unobligated balance available, start of year	-104	-179	...
24.40	Unobligated balance available, end of year	179	...	...
60.00	**Budget authority (appropriation)** (permanent, indefinite)	118	130	135
	Relation of obligations to outlays:			
71.00	Obligations incurred, net	56	309	135
72.00	Obligated balance, start of period	33	34	...
74.00	Obligated balance, end of period	-34	...	...
78.00	Adjustments in unexpired accounts	-13	...	...
90.00	Outlays	42	343	135

Object Classification (in thousands of dollars)

55-0100-0-1-806		88	89	90
21.0	Travel and Transportation of persons	...	21	23
22.0	Transportation of things	3	...	2
23.0	Communications, utilities, and miscellaneous charges	...	75	...
24.0	Printing and reproduction	42	44	40
25.0	Other services	11	118	70
36.0	Supplies and materials	...	51	...
90.0	Total obligations	56	309	135

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS
SALARIES AND EXPENSES

55-0100-0-1-806	88	89	90
Executive Level V	1	1	1
IR-18	...	...	...
IR-17	...	...	...
IR-16	1	1	1
IR-15	2	3	3
IR-14	1	1	1
IR-13	2	2	2
IR-12	1	1	1
IR-11	2	2	2
IR-10	...	1	1
IR-9	...	...	...
IR-8	3	3	3
IR-7	1	1	1
IR-6	1	3	3
IR-5	1	...	...
Total permanent positions	16	19	19
Temporary	...	...	...
Unfilled positions, end of period	5	1	...
Total FTE end of period	16	19	19

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

Agency Expenditure for Civlian Benefits

FY 1988

Description	Number of Personnel	Pre-1983 Retirement	Post-1983 Retirement	Medicare	FICA	Thrift Savings	Total
Civil Service Retirement System	8	$26,9429	$3,975	$5,126			$35,530
Federal Employees Retirement System	10		$40,175		$21,925	$10,913	$73,013

FY 1989

Civil Service Retirement System	8	$25,419	$3,779	$5,152			$34,350
Federal Employees Retirement System	11		$39,958		$22,521	$10,171	$72,650

FY 1990

Civil Service Retirement System	8	$24,229	$3,602	$4,911			$32,742
Federal Employees Retirement System	11		$38,092		$21,470	$9,696	$69,258

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

Permanent Staff

Kincaid, John (Executive Director)
McDowell, Bruce D. (Acting Director of Government Policy Research

Calkins, Susannah E. (Senior Analyst)
Casey, Joan (Information Officer)
Gleason, Robert (Director of Communications & Publications)
Hahn, Thomas D. (Accountant)
Jones, MacArthur (Publications Assistant)
O'Bier, Lori (Secretary)
Phillips, Ruthamae A. (Administrative Assistant)
Reynolds, Anita (Secretary)
Reynolds, Pamela L. (Personnel Officer)
Roberts, Jane F. (Assistant Director of Communications & Publications)
Ross, Ronald L. (Mail Room Supervisor)
Smith, Betty (Secretary)
Smith, Linda M. (Receptionist)
Steinko, Franklin A., Jr. (Budget and Management Officer)

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

TRUST FUND (CONTRIBUTIONS)

State Contributions Received

State	Amount
Alaska	$ 5,000
California	13,000
Connecticut	3,000
Florida	3,000
Hawaii	1,000
Indiana	7,000
Kansas	2,000
Kentucky	6,000
Maryland	6,000
Missouri	2,250
New Hampshire	5,000
New Mexico	5,000
North Carolina	3,000
North Dakota	2,600
Ohio	8,000
Oregon	2,250
Pennsylvania	9,000
Rhode Island	5,000
South Carolina	6,000
Tennessee	6,000
Virginia	7,000
Washington	2,200
Wisconsin	2,250
Totals 23 States	**$111,550**

Honorariums Received

Payee Amount	Amount
Committee for Intergovernmental Tax Equity	$5,689.96
Lincoln Institute	800.00
Total	**$6,489.96**

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

Reimbursable Program Reimbursements by Object Classification

Object Classification	Payee	Amount
11.1	**Full-time permanent**	
	Department of Health & Human Services	1,273.00
	Harry S. Truman Scholarship Foundation	15,000.00
	National Council on Public Works	45,000.00
12.1	**Personnel benefits: Civilian**	
	Department of Health & Human Services	202.86
	Carolyn Lynch	56.97
21.0	**Travel**	
	United Airlines	201.58
	Ron Oakerson	176.00
	United Airlines	322.00
	Trans World Airlines	872.00
	Ron Oakerson	436.00
	United Airlines	213.00
	State of California	1,000.00
	State of Indiana	262.00
	National Academy of Sciences	327.63
	Institute for Contemporary Studies	305.50
22.0	**Transportation of Things**	
	Ron Oakerson	3.56
	Joan Casey	27.20
	UPS	107.54
23.0	**Rent, Communications and Utilities**	
	Robert Isaac	33.11
	Harold Wolman	5.04
	U.S. Postal Service	605.86
	AT&T	288.65
25.0	**Other Services**	
	National Council on Public Works	252,500.00
	Publication Sales	70,250.73
	U.S. Department of Agriculture	2,000.00
26.0	**Supplies**	
	Sumner Inc.	762.50
	U.P.S.	93.00
	Carroll Publishing Company	425.00
	Total	**$392,750.73**

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

Reimbursable Program Receipts

Agency:	Department of Health and Human Services
Amount:	$1,475.86
Time Frame:	January 1, 1988, to January 17, 1988
Purpose:	Reimbursable Detail

Agency:	Harry S. Truman Scholarship Foundation
Amount:	$15,000
Time Frame:	October 1, 1987, to September 30, 1988
Purpose:	Administrative Services

Agency:	National Council on Public Works Improvement
Amount:	$295,000
Time Frame:	October 1, 1987, to September 30, 1988
Purpose:	Administrative Services and Agency Closeout

Agency:	Department of Agriculture
Amount:	$10,000
Time Frame:	May 1, 1988, to September 30, 1988
Purpose:	Intergovernmental Finance and Rural Development Research

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

Direct Program
Object Classification Net Change Justification
FY 1989-90

Object Classification	FY 1989	FY 1990	Net Change
Personnel Compensation:			
11.1 Full-time permanent	650	664	+14
Full-time permanent staff will be brought up to OMB ceiling and filled throughout FY 1990. $14,000 more is needed in FY 1990 because position vacancies will occur during a portion of FY 1989.			
11.3 Other than full-time	3	3	—
This category covers our use part-time temporaries on regular staff, Commission member salaries, and short-term temporary personnel to work on special projects.			
TOTAL PERSONNEL COMPENSATION	653	667	+14
12.1 Personnel Benefits: Civilian	131	124	−7
Because there are no termination and accumulated leave payments to be made, there will be a reduction in the benefits paid.			
21.0 Travel and transportation of persons	14	27	+13
Commission and staff travel will again be funded by the appropriation rather than the Trust Fund.			
22.0 Transportation of things	10	10	—
Anticipated price increases account from a minimal increase.			
23.1 Rental payments to GSA	232	260	+28
The GSA lease ten-year lease on the ACIR office space terminates at the end of FY 89. GSA minimal estimate is used for FY 90.			
23.2 Communications, utilities, and miscellaneous charges	. . .	75	+75
GSA rate increases indicate that this group of charges will show a slightly higher rate of increase than in previous years. Increased appropriation allows S&E to fund this class in FY 1990.			
24.0 Printing and reproduction	. . .	64	+64
The trust fund will finance $44,000 in FY 89.			
25.0 Other services	. . .	23	+23
The trust account will fund $120,000 in contract research in FY 89. In FY 90 there will be a combined (S&E and Trust Fund) decrease of $27,000.			
26.0 Supplies and materials	. . .	50	+50
The trust account will fund $51,000 in supplies in FY 89. An actual reduction.			
99.0 Total Direct Obligations	1,040	1,300	+260

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

Invitational Travel

Payee	Amount	Purpose
A. Breton	226.40	Commission Meeting
E. Fry	540.40	Commission Meeting
M. Pagano	494.79	Commission Meeting
R. Pomp	602.15	Commission Meeting
E. Corrigan	390.00	Commission Meeting
R. Parks	399.81	Conduct Preliminary Research for the Study of Allegheny County
R. Parks	402.75	Consultation with St. Louis County Planning Department
W. Fischel	479.85	Critics' Session on "Interjurisdictional Tax and Policy Competition"
A. O'rourke	350.29	Homelessness Conference
C. Johnson	119.00	Homelessness Conference
P. Fischer	49.00	Homelessness Conference
N. Kaufman	82.28	Homelessness Conference
D. Kirchheimer	169.10	Homelessness Conference
H. Lamb	355.00	Homelessness Conference
H. Lamb	376.00	Homelessness Conference
J. Leavitt	346.00	Homelessness Conference
K. McChesney	266.76	Homelessness Conference
E. Rosnow	409.00	Homelessness Conference
D. Roth	308.58	Homelessness Conference
F. Steinko	1,002.00	Homelessness Conference
J. Wright	260.00	Homelessness Conference
R. Parks	675.00	How Local Public Economies Work
R. Parks	174.68	How Local Public Economies Work
R. Williams	321.30	Meeting on State Constitutional Law
M. Pagano	729.68	Non-Interstate Federal Aid Highway Program
M. Pagano	495.40	Non-Interstate Federal Aid Highway Program
M. Pagano	1,068.13	Non-Interstate Federal Aid Highway Program
M. Pagano	493.65	Non-Interstate Federal Aid Highway Program
M. Pagano	163.80	Non-Interstate Federal Aid Highway Program
S. Percy	177.45	Study on Disability
J. Bragmann	37.60	Thinkers' Session on "Local Government in the International Arena"
M. Shuman	380.50	Thinkers' Session on "Local Government in the International Arena"
C. Alger	241.34	Thinkers' Session "Local Government in the International Arena"
P. Galie	390.08	Thinkers' Session "State Law in the Federal System"
M. Libonati	171.00	Thinkers' Session "State Law in the Federal System"
T. Morris	60.29	Thinkers' Session "State Law in the Federal System"
M. Schwartz	253.00	Thinkers' Session "State Law in the Federal System"
D. Skover	772.22	Thinkers' Session "State Law in the Federal System"
G. Tarr	14.66	Thinkers' Session "State Law in the Federal System"
R. Collins	192.00	Thinkers' Session "State Law in the Federal System"
R. Williams	11.47	Thinkers' Session "State Law in the Federal System"
M. Brownell	411.80	Thinkers' Session on "State Taxation and Regulation of Banks in a Period of Deregulation"
J. James	475.56	Thinkers' Session on "State Taxation and Regulation of Banks in a Period of Deregulation"
M. Kaltenborn	428.50	Thinkers' Session on "State Taxation and Regulation of Banks in a Period of Deregulation"
E. Fry	480.00	Thinkers' Session on "State Taxation and Regulation of Banks in a Period of Deregulation"
E. Berkowitz	17.50	Thinkers' Session on Federal and State Compliance With National Mandates"
M. Mollen	112.00	Thinkers' Session on Federal and State Compliance With National Mandates"

S. Percy	80.40	Thinkers' Session on Federal and State Compliance With National Mandates"
R. Scotch	353.62	Thinkers' Session on Federal and State Compliance With National Mandates"
A. Bassarab	264.00	Thinkers' Session "Local Government in the International Arena"
R. Parks	1,310.03	Allegheny County Study
P. Goldmark	89.80	Summary Hearing For National Council on Public Works Improvement
S. Percy	199.05	Disability Project
J. Chessen	59.70	Symposium on Banking Regulation
M. Weiss	61.76	Conference on Residential Community Associations
M. Blomquist	218.00	Conference on Residential Community Associations
D. Halvorson	578.19	Symposium on Banking Regulation
J. Watts	84.00	Conference on Residential Community Associations
M. Pagano	42.70	Commission Meeting
S. McCray	42.71	Commission Meeting
Wash. Marriott	2,629.50	Conference on Residential Community Associations
D. Miller	125.11	Conference on Residential Community Associations
J. Bragman	119.00	Symposium on Banking Regulation
K. Scarborough	598.00	Symposium on Banking Regulation
J. Watts	296.00	Conference on Residential Community Associations
R. Parks	307.42	Allegheny County Study
P. Markman	705.00	Commission Meeting
R. Rafuse	7.07	Southern Legislative Conference Annual Meeting
C. Silverman	289.10	Conference on Residential Community Associations
J. Chessen	556.00	Symposium on Banking Regulation
R. Strauss	334.00	Thinkers' Session on State Taxation of Telecommunications
K. Case	120.50	Thinkers' Session on State Taxation of Telecommunications
S. Gold	363.00	Thinkers' Session on State Taxation of Telecommunications
S. McCray	454.00	Thinkers' Session on State Taxation of Telecommunications
W. Hellerstein	370.52	Thinkers' Session on State Taxation of Telecommunications
K. Carlson	456.00	Thinkers' Session on State Taxation of Telecommunications
R. Oakerson	1,085.94	Allegheny County Study
R. Ebel	300.00	Arizona Tax Study
M. Pagano	47.60	Commission Meeting
R. Parks	754.28	Allegheny County Study
Total	$31,400.11	

ALL ACCOUNTS

Personal Services Product Contracts

Contractor	Date of Order	Amount	Time Frame	Account
Salaries and Expenses				
H. Ulbrich	12/10/87	$2,500	12/10/87-3/15/88	Salaries & Expense
J. Shannon	12/10/87	3,200	1/25-5/30/88	Salaries & Expense
L. Monday	5/16/88	4,400	5/16-7/15/88	Salaries & Expense
W. Blomquist	9/27/88	19,500	9/27/88-9/1/89	Salaries & Expense
D. Dean	9/27/88	41,000	9/27/88-9/30/89	Salaries & Expense
J. Klein	9/27/88	27,000	9/27/88-9/30/89	Salaries & Expense
L. DeBoer	9/9/88	2,000	9/15/88-1/1/89	Salaries & Expense
S. MacManus	9/22/88	2,000	9/15/88-1/1/89	Salaries & Expense
T. Stinson	9/9/88	2,000	9/15/88-1/1/89	Salaries & Expense
R. Oakerson	9/22/88	12,000	9/22/88-2/28/89	Salaries & Expense
V. Munley	9/22/88	12,000	9/15/88-6/30/89	Salaries & Expense
J. Ortbal	9/23/88	2,600	9/28/88-11/15/88	Salaries & Expense
L. Dursthoff	8/24/88	28,000	9/14/88-9/13/89	Salaries & Expense

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

Equal Employment

Over the last twelve years, the number of staff employed by the Advisory Commission on Intergovernmental Relations has decreased from 36 permanent employees in 1976 to 17 in FY 1988. The 53% reduction in staff size during that period left very few opportunities to recruit minorities and women. For lack of funding, few positions are being filled as staff members resign or retire.

In FY 1987, there were 21 Full-Time Equivalent employees on the staff of the Commission. In FY 1988, that number has decreased to 18. There were five changes in the composition of the ACIR staff during this period. White males decreased from six to five, and white professional females decreased from seven to three. A black professional female was added in FY 1988.

From FY 1987 to FY 1988, the number of secretarial/support staff was reduced to four black females and one white female—a reduction of one white female. ACIR continues to have one black male technician/supervisor and one black male technician.

Level	Blacks		White		Asian Americans		American Indian	
	M	F	M	F	M	F	M	F
Full-Time Professional	—	1	5	3	—	—	—	—
Technician/Supervisory	1	—	—	—	—	—	—	—
Technician	1	—	—	—	—	—	—	—
Secretarial	—	4	—	1	—	—	—	—

Operating Cost: Because of the small size of the staff and the overlapping duties within the administrative services section, no records are maintained of time spent on EEOC expenditures. Less than 1% of the time of each of three EEOC coordinators is spent on EEOC. This involves fulfilling reporting requirements, attending meetings, and keeping up to date on changes in EEOC rules and regulations.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

ALL ACCOUNTS

Publication Costs (including estimates),

Title	Pages	Press Run	Print Cost**
Devolution of Federal Aid Highway Programs: Cases in State-Local Relations and Issues in State Law (M-160)	64	1,500	
Changing Public Attitudes on Governments and Taxes (S-17)	92	1,500	
Metropolitan Organization: The St. Louis Case (M-158)	184	1,500	2,885
Interjurisdictional Competition in the Federal System (M-157)	36	1,500	831
Measuring State Fiscal Capacity, 1987 Edition (M-156)	156	1,500	9,344
Significant Features of Fiscal Federalism: 1988 Edition, Vol. II (M-155 II)	156	2,500	. . .
Significant Features of Fiscal Federalism: 1988 Edition, Vol. I (M-155 I)	132	1,500	4,155
Significant Features of Fiscal Federalism: 1988 Edition, Vol. I (M-155 I) *(reprint)*	132	750	1,109
Is Constitutional Reform Necessary to Reinvigorate Federalism (M-154)	48	2,500	1,402
The Organization of Local Public Economies (A-109)	68	1,500	1,598
The Organization of Local Public Economies (A-109) *(reprint)*	68	1,000	750
Local Revenue Diversification: Local Income Taxes (SR-10)	60	1,500	1,274
State-Local Highway Consultation and Cooperation: The Perspective of State Legislators (SR-9)	60	1,500	2,147
The Tax Reform Act of 1986—Its Effect on Both Federal and State Personal Income Tax Liabilities (SR-8)	34	500	In-House
Governments at Risk: Liability Insurance and Tort Reform (SR-7)	38	500	In-House
Local Revenue Diversification: User Charges (SR-6)	76	2,500	1,454
Intergovernmental Perspective:			
"Welfare Reform," Spring 1988, Vol. 14, No. 2	24	22,087	7,210
"Federalism Becomes Finance," Winter 1988, Vol. 14, No. 1	28	22,174	6,395
"State-Local Relations: The Search for Balance," Summer/Fall 1987, Vol. 13, No. 3/4	40	24,000	7,999

*Estimated.

**All typesetting is done in-house and, therefore, no typesetting costs are included.

QUESTIONS SUBMITTED BY SENATOR DECONCINI

Senator DeConcini. Your testimony indicates that a reduction below the requested level of $1.3 million in FY 90 will be "nearly fatal" for the Commission. Yet you are demonstrating that with less in appropriation dollars in FY 89, you anticipate using $51,000 in outside income for nondiscretionary expenses. You indicate this is "a first" for the Commission. Why can't you improve on the progress being made this fiscal year to increase outside contributions to support the Commission's budget?

Mr. Hawkins. We have indeed made progress, Senator, but the use of outside income to cover nondiscretionary expenses does indicate the degree to which the Commission's already reduced level of operation is becoming more dependent upon external life-support systems. We must also understand the natural limits on the Commission's ability to raise external revenue.

The first limit is fiscal. Requests to the states are not unlike requests to the Congress, except that we have to work through 50 different legislative systems. The process is time consuming. In addition, our requests for voluntary contributions must compete not only with other governmental appropriations in each state, but also with state dues payments to many national organizations of state and local officials. Further, changes in personnel in the states resulting from staff turnover and legislative and gubernatorial elections mean that we lack continuity in our contacts over time. We also face diminishing returns as more ACIR staff time is devoted to soliciting contributions.

Of course, any entity that relies on voluntary financial support to produce a public good faces the classic free-rider problem, no matter how much people like what you do. Unlike traditional voluntary organizations, moreover, we cannot offer various incentives and inducements, invite corporations to sponsor meetings, hire or retain professional fundraisers, select Commission members for their fundraising acumen, or exclude non-members from benefitting from our work.

In addition to these challenges, we have been hearing two things from the states that affect voluntary contribution levels. One is the feeling among some states, especially those having fiscal problems, that requests for cost-sharing in the case of the ACIR reflect a larger pattern of costs being shifted from the federal government to the states. Ironically, precisely because the ACIR

requests are so small compared to other program costs, they are sometimes perceived as all the more annoying. The response is: "Why can't the federal government at least support the tiny ACIR budget? After all, the ACIR is a federal agency created by an act of the Congress." Second, where a state legislature supports a state ACIR, some officials believe that the Congress should support the U.S. ACIR. I am not saying that these state responses are right or wrong, I am just reporting to you the challenge we face.

The second limit we confront is one of independence. The Congress established the ACIR to be an independent bipartisan commission. The more that we have to rely on outside support, the more difficult it is to maintain independence. Thus, increases in outside contributions are not always a pure good. The underlying issue is the integrity of the Commission's mission as stipulated in the acts of Congress pertaining to the ACIR.

What we are suggesting, therefore, is that $1.3 million is a realistic base appropriation, one that can preserve the independence of the Commission while still putting plenty of pressure on the Commission to raise outside funds. We have never objected to or complained about that pressure. In fact, we think that selling publications and asking the states for contributions is a good idea. We only ask that the Congress recognize our good faith effort to raise outside revenue and understand the very real limits on the ability of a federal agency like the Commission to do so.

Senator DeConcini. In your testimony, you state that to date, the Commission has realized $96,050 from state contributions. What are your projections for state contributions in FY 90? How do these contributions compare to those raised in FY 89?

Mr. Hawkins. In fiscal year 1990, we would hope to raise about $145,000. At this point, it looks like we will raise about $125,000 from voluntary state contributions in fiscal year 1989. In fiscal year 1988, we raised $111,550.

Senator DeConcini. How does the Commission plan to increase state funding in the future?

Mr. Hawkins. In terms of voluntary contributions, we have devoted more staff resources to solicitation. We have a system for timing requests according to the particular budget cycle in each of the 50 states. In addition to mail communications, we are devoting more effort to personal contacts in each state.

In some states, we also rely on the state ACIR to act as an intermediary for us. Of course, Commission members themselves help out in states where they know people. In short, we cast as many lines into each state as we can in our effort to land a contribution.

In terms of state funding in return for direct services, we will continue to do contract research that is appropriate for the Commission and that does not displace the Commission's primary independent research.

Senator DeConcini. What role does the Advisory Commission play in mediating intra-state or state and federal conflict?

Mr. Hawkins. The Commission is not legislatively authorized to mediate specific conflicts between a locality and its state, between several of the states, or between a state and the Federal government. The Commission is only authorized to undertake studies, provide a forum, and make recommendations to help resolve salient issues of general conflict in the intergovernmental system. The Commission also is charged to "encourage discussion and study at an early state of emerging public problems that are likely to require intergovernmental cooperation."

Senator DeConcini. You have testified that many of your recommendations over the years have been adopted by federal, state and local governments. Can you provide the committee with concrete examples (recent, more notable examples) of policy recommendations that were adopted by the various government jurisdictions?

Mr. Hawkins. Much of the Commission's work takes the form of information that helps to focus or inform policy debates: for example, the ACIR's current estimates of the revenue potential of state taxation of out-of-state mail-order sales, a matter now pending before the Congress. Also, many recommendations deal with long-term issues and principles of operation that serve to shape policy and influence the quality of debate. For example, the main message of the ACIR's 1988 federal-state-local conference on homelessness seems to have had an effect in a number of states as well as in the federal executive branch--namely, the critical importance of both intergovernmental and interagency coordination in dealing with the multifaceted problems of homeless persons and families.

To be more concrete, Commission recommendations were instrumental in securing the establishment of the fiscal note process here in the Congress

whereby the CBO estimates the costs to state and local governments of major bills likely to affect those governments. The ACIR also played a role in proposing ideas for the enactment of amendments to Federal bankruptcy laws pursuant to our city financial emergencies recommendations. Commission work also played a role in the promulgation of Executive Order 12612 (1987).

The establishment of state ACIRs in 28 states (with more states interested in doing so), the national State and Local Legal Center, pension portability programs for various state and local public employees in a number of states, investment of idle cash, joint purchasing and joint contracting, consolidated state-administered pension systems, and the widespread adoption of property-tax relief programs for low-income and elderly homeowners represent important state and local accomplishments by the ACIR. Examples of older federal-state-local accomplishments of continuing significance are the Intergovernmental Personnel Act and the ACIR's role in helping to promote federal legislation and intergovernmental coordination to reduce interstate cigarette smuggling.

Of course, the ACIR played a major role in facilitating the enactment of General Revenue Sharing in 1972. That program lasted until 1986, so we are rethinking the situation in light of the new circumstances in our federal system. However, several states adopted state revenue sharing as a result of ACIR recommendations. Thus far, moreover, 14 states have adopted measures to reimburse local governments for state mandates. Also, all states now have some type of law authorizing intergovernmental service agreements.

Senator DeConcini. In these times of tight budgets and declining appropriations, where does the Commission see itself in five years?

Mr. Hawkins. Programmatically, the Commission hopes to be issuing reports on the revitalization and rebalancing of the federal system while turning its attention increasingly to problems of fine tuning rather than conflict, to the dissemination of innovations throughout the intergovernmental system, to technical assistance to all levels of government, to public education on greater citizen understanding of and involvement in our federal system, and, to a limited extent, to the promotion of federalist principles around the world.

Budgetarily, we hope to be operating with a baseline appropriation from the Congress, with $1.3 million rather than $1.04 million being that baseline

for fiscal year 1990. We would hope that the Congress will make adjustments in that baseline to compensate for inflation and for mandated pay increases and personnel benefits, but otherwise, we would hope that the Congress will treat its baseline appropriation as an investment so as to allow the Commission to perhaps double that investment by securing outside funding for projects appropriate to its mission.

The Commission has no desire to become a big think tank. We want to remain "lean and mean" and policy relevant. If we could be reasonably assured of what we believe is a minimally necessary foundation of Congressional support over the next five years, then we could really build on that foundation. Given that we have done a very good job, perhaps better than anyone expected, in building upon a 52 percent decline in appropriations since fiscal year 1985, you can be confident that we will do an even better job building upon a more stable level of appropriations based upon a $1.3 million appropriation next year--an amount we have said could be a firm base for the last three years.

Senator DeConcini. What is the affiliation between the state Advisory Commissions and the federal Advisory Commission?

Mr. Hawkins. There is no formal, legal or fiscal affiliation between the U.S. ACIR and the 28 state ACIR counterparts. Informally, and in the spirit of intergovernmental cooperation, we have good relationships with the state ACIRs. The U.S. ACIR has model state legislation to establish a state ACIR. The U.S. ACIR provides technical assistance to states wishing to create an ACIR and to existing state ACIRs. We highlight a state ACIR in each issue of Intergovernmental Perspective. We share studies and work with the state ACIRs on certain research projects; some state ACIRs are able to help us with state contributions; we serve as the convener, but not funder, of an annual meeting of the state ACIRs; and we also help to facilitate joint projects among state ACIRs. Some state ACIRs actually have legislative provisions requiring them to review our reports and recommendations. These organizations are an extremely important element in our implementation efforts. They serve as able and willing conduits for our products and ideas, and as sharp evaluators of both.

Senator DeConcini. In your testimony, you raise the possibility of an "exodus of top-flight research personnel" to other agencies, institutions and

universities that support similar research activities. Can you explain why this could happen?

Mr. Hawkins. The ability of the Commission to retain top-flight research personnel is not based on financial rewards. It is based on loyalty and a recognition that the Commission's work makes a difference. Our staff believes in the ACIR.

All of our research people have had private-sector job offers at considerably higher salaries than we can pay ($72,000 versus $125,000 in a recent case). A couple have also had academic job offers. Thus far, the Commission has been able to retain necessary and qualified research personnel because the Commission is a good place to work, the prestige that comes from working at the ACIR continues to be high, staff members have opportunities to work on important policy-relevant issues in a reasonably objective, non-politicized way, and researchers have opportunities to interact with a great variety of private citizens and public officials across the country. This dedication, by the way, has been the single greatest factor in the Commission's ability to increase productivity in the face of declining resources.

Let me add another point to your question. Over the past 30 years, the ACIR has had a great record of hiring bright young people and giving them a strong start on a career in the public or private sectors. We have many alumni in important staff positions here in Washington and in state and local governments around the country. Because of budget reductions, however, and the need, for example, to contract out more research, we have had to focus on retention of our few seasoned, top-flight research staff members. We still recruit short-term student interns, but our ability to start young professionals on a career in public service or private-sector work related to public interests is now virtually non-existent.

We have, therefore, reached a limit. We are at a tipping point with respect to our research resources. At an appropriation of $1.04 million in fiscal year 1990, we would have to cut our research program by more than 60 percent. Given that quality research lies at the heart of the ACIR's policy recommendations, the Commission would have much less to offer both its staff and the intergovernmental community. Further, to recover some of this loss, the research staff and Commissioners would have to devote even more time to

fundraising and less time to research and policy recommendations. The non-salary rewards that help us to keep a good research staff today would be largely gone tomorrow. Private firms that offer much higher salaries, and universities that offer strong research support, will naturally become much more attractive to our best research people. Similarly, given recent recruitment experiences, we know that it will be very difficult, perhaps impossible, to replace existing staff with equally qualified staff under such conditions. At a $1.3 million appropriation, plus outside income, we can maintain a program that will retain staff dedication and earn the respect of both our best staff and the many people we serve.

Questions Submitted by Senator Domenici

Senator Domenici. You point out in your testimony that the ACIR is included in the flexible freeze category of the fiscal year 1990 budget submitted by President Bush. The fiscal year 1990 Reagan budget request is $1,300,000, $260,000 above the fiscal year 1989 appropriation level. What will be the impact on the Commission's activities if its funding level for fiscal year 1989 is held to the fiscal year 1989 outlay level; in other words, if the ACIR remains in the flexible freeze spending category? Please be specific as to which activities would be impacted and the specific funding reductions which would be required.

Mr. Hawkins. Let me note first that because the Commission is unlikely to have unobligated Trust Funds to carry forward into FY 1990, an appropriation of $1.04 million will, in reality, amount to a reduction of Commission budgetary resources of about $179,000. Under these circumstances, it would be necessary for the Commission to reduce its staff of 15 (which is already down from 32 in FY 1985) to 9-10 people. It would be necessary to reduce the number of Commission meetings from 4 to 3 per year. We also would have to reduce office space again and probably move to new quarters. We reduced office space by another 1,591 square feet last September, bringing our total office-space reduction to 42 percent since FY 1982.

Most important, little or no funding would be available to let contracts for Commission research; hence, the Commission's research program would be reduced to what could be produced in-house. Already, because of constrained resources in FY 1989, we are looking at a decline of 80 percent in the ACIR's

contract-research funding capacity since FY 1987. Thus, we are losing a key strategy that was used to increase productivity through FY 1988, despite declining resources. Overall, I estimate that the number of research projects conducted by the Commission in FY 1990 would decline by about 60 percent under a zero percent increase. The Commission's information and technical assistance activities would be reduced as well.

I cannot be much more precise here because three other factors would come into play. First, under the constraints of no increase, the Commission would most likely lose some, perhaps most, of its six top people at some point during FY 1990. Replacing these people would be difficult, and impossible in some cases. Such a development would have a considerably adverse effect on all of the Commission's activities. Second a reduced output and a reduced ability to respond to information and technical assistance requests would reduce sales revenue and state contributions. Thus, if the Commission's research declines by 60 percent in FY 1990, then instead of raising about $75,000 in sales revenue, we will raise about $30,000. If we add this $45,000 loss to the $179,000 I mentioned earlier, then we would have an effective reduction of about $224,000 under a zero appropriations increase from FY 1989 to FY 1990. Third, the ACIR research program also would be reduced by some additional amount because more staff time would have to be diverted to outside fundraising.

Senator Domenici. The statement of managers accompanying the fiscal year 1987 continuing appropriations resolution conference report mandated decreasing federal appropriations for the ACIR to achieve a maximum federal funding level of $1,040,000 for the Commission beginning in fiscal year 1989. It indicated that after fiscal year 1989, federal funding for the Commission should be capped at the fiscal year 1989 appropriations level and that the ACIR should request no more than that amount. The congressional intent established in the fiscal year 1987 continuing appropriations resolution was that funding for the Commission's operations should be cost-shared with the states and others who benefit from the Commission's activities. Beginning in fiscal year 1989, federal funding for the Commission would be capped at $1,040,000 and additional amounts needed to augment this federal funding level would be generated through state contributions and increased receipts from the sale of publications.

What level of funding did the Commission request in its fiscal year 1990 budget submission to the OMB?

Mr. Hawkins. The Commission's initial request to OMB was $1,365,000. Given that the House and OMB had approved $1,275,000 for the ACIR in FY 1989 on the ground that this amount was more realistic for maintaining operations, the Commission felt obliged to make a realistic request for FY 1990. The Commission complied with Congressional directives in making an initial request of $1,040,000 in FY 1989, even though the Commission has argued for the past four years that $1,300,000 to $1,400,000 is necessary for effective operation. The accuracy of our position is evidenced by the fact that Commission outlays have been in that range during the two lowest years of appropriation decline.

Senator Domenici. For each of fiscal years 1987 through 1989, what level of receipts were, or are anticipated to be generated, through the sale of publications? What is the total amount of funding generated or expected to be generated from state contributions?

Mr. Hawkins. In FY 1987, the Commission received $61,594 from the sale of products and $118,550 in contributions from 26 states. In FY 1988, sales receipts were $70,857, and contributions from 23 states totaled $111,550. In FY 1989, to date, we have received $33,853 in product sales, and contributions of $104,550 from 19 states. It is anticipated that we will receive $70,000 from sales and $125,000 from state contributions.

Senator Domenici. In each of fiscal years 1987 through 1989, what percent of the ACIR's total budget came, or is expected to come, from external income?

Mr. Hawkins. In FY 1987, $266,000 or 13 percent of budget authority came from nonappropriated funds. In FY 1988, nonappropriated revenues increased to $511,000 or 27 percent of budget authority. In FY 1989, it is anticipated that nonappropriated revenues, while declining to $480,000 due to the loss of the National Council on Public Works Improvement, will amount to 32 percent of the proposed Reagan budget authority.

Senator Domenici. Why do we need to increase Federal funding in fiscal year 1990 above the maximum Federal funding level of $1,040,000 established by Congress? Why isn't the Commission able to generate the amount of funding needed above this level through increased state contributions and publication receipts?

Mr. Hawkins. My response to your very first question provides part of the answer to this question. That is, reductions in Federal funding reduce our output, which reduces income from product sales and service receipts. Last year, both OMB and the House concluded that $1.04 million is too low. Again this year, OMB, under President Reagan, reached the same conclusion and, therefore, approved a request of $1.3 million.

Having already absorbed a 52 percent decrease in Federal appropriations since FY 1985, an appropriation of $1.04 million in FY 1990 would reduce the Commission to a shell of an operation. The capacity to do high quality, in-depth research on a range of issues is essential for the Commission because, as an advisory body for federal, state, and local governments, the Commission's effectiveness depends entirely upon the quality and credibility of its work. The Commission has been able to do an extraordinary amount of good work on a small resource base, but the base has now gotten so small that we cannot adequately fulfill our statutory mandate. For a micro agency like ACIR, the $260,000 increase requested for FY 1990 is critical to our viability.

The Commission needs a firm foundation from which to raise outside income. For example, revenue from product sales depends directly on the number of reports we issue each year. Further, product sales do not produce pure income because there are costs involved in marketing. The Commission is not a commercial publishing house; it issues about 20 saleable products a year; and its publications are not intended for mass marketing. Our "market" is also severely limited because all depository libraries around the country receive free copies of our reports through GPO; members of Congress request free copies for constituents; and newspapers and journals reprint some Commission materials. By comparison, private nonprofit organizations and think tanks, whose markets are similar to the Commission's market, receive a large amount of revenue from sales to libraries. Consequently, between depository libraries, Congressional requests, and reprints, a substantial portion of the Commission's market is closed to sales. In light of these limitations, it is remarkable that the Commission's product sales came to $70,857.46 in FY 1988.

Regarding state contributions, we are basically in the same situation as the Continental Congress was under the Articles of Confederation. State contributions in support of the national government fell 85 percent short of the

amount requested by the Congress, and that was during the Revolutionary War. Actually, the ACIR has been doing better than the Congress did during the Revolutionary War; nevertheless, as you well know, whenever an agency depends on voluntary contributions to produce public goods, there is a free-rider problem, no matter how much people like or need what you do.

Requests to the states are not unlike requests to the Congress, except that we have to work through 50 different legislative systems. The process is time consuming. Further, our requests for voluntary contributions must compete not only with other appropriations in each state but also with mandatory state dues payments to many national associations of state and local officials. Unlike associations, we cannot deprive non-contributing states of the benefits of our work, nor can we offer incentives to contributors, such as prizes, low-cost insurance, and corporate sponsorship of meetings. The Commission is not, cannot be, and should not be that kind of organization.

In addition, changes in personnel in the states mean that we often lack continuity in our contacts over time. We also face diminishing returns as more ACIR staff is devoted to soliciting contributions and other outside income. Occasionally, moreover, a state that does not like a particular report or recommendation will decline to contribute. We could issue ten reports that a state likes, but if it does not like the eleventh report, it may not contribute. Nevertheless, because we are an independent bipartisan commission, we are obligated to call the shots as we see them.

In addition to these challenges, we have been hearing two things from the states that affect contributions. First, some states, especially those having fiscal problems, believe that requests for cost-sharing in the case of the ACIR reflect a larger pattern of costs being shifted from the federal government to the states. Ironically, precisely because the ACIR requests are so small compared to other program costs, they are sometimes perceived as all the more annoying. The response is: "Why can't the federal government at least support the tiny ACIR budget?" Second, some of the states that have their own state ACIR believe that since the state legislature supports the state ACIR, then the Congress should support the U.S. ACIR. I am not saying that these state responses are right or wrong, I am just reporting to you the challenge we face.

Finally, we do not have enough staff to carry out research, handle technical assistance requests, produce reports, organize conferences and meetings, comply with government accounting and administrative requirements, and pursue outside revenue at the same time. We do not have and cannot have a professional fundraiser on staff or on retainer, and we do not have and cannot have a board of directors selected primarily for their fundraising capacity.

Senator Domenici. Last year, the ACIR requested a fiscal year 1989 funding level of $1,275,000. The level appropriated for fiscal year 1989 was the maximum federal funding level of $1,040,000 for fiscal year 1989 set forth in the fiscal year 1989 Continuing Appropriations Act, $235,000 below the requested level. In your testimony last year, you indicated that funding in fiscal year 1989 below the requested level would "cripple ACIR's research program and challenge the very viability of the Commission." What reductions below the fiscal year 1989 request are being made to comply with the fiscal year 1989 appropriations level? Is it having the damaging effect you predicted it would on the Commission's research program and the Commission's very viability?

Mr. Hawkins. The litmus test here, Senator Domenici, is that we let 19 contracts totaling $324,306 for Commission research in FY 1987. In FY 1988, we let 14 contracts totaling $186,050 for Commission research, a funding decline of 43 percent from FY 1987. Thus far, in FY 1989, we have let only one contract, in the amount of $52,000, for research. That contract, by the way, is for our work on the Clearinghouse for State and Local Initiatives on Productivity, Technology and Innovation, which the ACIR is doing with funding from the U.S. Department of Commerce under an interagency agreement. Depending on the outside funding received this year, I believe that the Commission will be able to let contracts for research on projects on its own agenda totaling about $65,000. Excluding contracts let with Commerce funding, therefore, we are looking at an 80 percent decline in contract-research funding capacity from FY 1987 to FY 1989.

In FY 1987, the Commission had 28 staff members. This number declined to 23 in FY 1988, and to 15 thus far in FY 1988, for a total decline of 46 percent in just two years. In September 1988, we relinquished more office space--1,591 square feet. Since FY 1982, the ACIR has reduced office space by 42 percent.

The Commission, therefore, is not able to carry out its program adequately this year. Together, the declines in the indicators I have just mentioned can

only be defined as crippling. It also is important to note that the impressive list of projects submitted with our testimony consists almost entirely of projects initiated in-house or by contract in prior fiscal years. Also, what helped us budgetarily this year was an ability to carry forward $179,000 from FY 1988. However, as our budget submission indicates, we will not have such a carry over to cushion the impact of an appropriation below $1.3 million in FY 1990. In short, we are benefitting from past capital investments, so to speak, but we have little capital to invest in the future.

Beyond a certain budgetary point, one cannot operate effectively, efficiently, and properly. We have now passed that point. There is no fat to cut out of the ACIR, only meat. And we have already cut meat out of the Commission by necessity. I think you can test the credibility of my statement by looking at how well we responded to the 52 percent decline in appropriations since FY 1985 and how we did, in fact, increase productivity and outside income in FY 1987 and FY 1988. Until FY 1989, moreover, the Commission did not seek increased appropriations. Only last year did we indicate that an appropriation of $1.04 million would be harmful to the effectiveness and viability of the Commission. If we believed otherwise, we would say so, as we did in the past, but we believe that $1.3 million is really an essential and realistic appropriation for the Commission in FY 1990.

Senator Domenici. What portion of the fiscal year 1990 Reagan budget request for the Commission is allocated to each of the following three categories--research, marketing, and administration? How does this compare with the amount being spent in each of these three areas in fiscal year 1989?

Mr. Hawkins. About 64 percent of resources are allocated to research in FY 1989, with 25 percent allocated for administration and 11 percent for marketing. In the Reagan budget for FY 1990, 53 percent of resources would go to research, 26 percent to administration, and 21 percent to marketing. These FY 1990 figures are based on an expectation of increased administrative and marketing costs associated with the need to continue to raise more outside revenue. The decline in the proportion dedicated to research is almost entirely due to the funding available for research contracts in the absence of an

unobligated balance carried forward into FY 1990. At $1.3 million, we would be able to reallocate more resources to research.

Senator Domenici. I note from the fiscal year 1990 appropriations justification materials that offsetting collections from Federal funds and nonfederal sources will decrease in fiscal year 1990. Why is this the case?

Mr. Hawkins. The loss of the National Council on Public Works Improvement as an administrative services contract client is the major reason for the decline. The Council was a temporary commission. We are actively pursuing other, small administrative service clients, but these negotiations are currently in the preliminary stage.

Senator Domenici. What amount of funding is necessary in fiscal year 1990 to cover the costs of inflation? What amount of additional funding is necessary to provide for increases in personnel compensation and benefits?

Mr. Hawkins. The costs to ACIR of the January 1, 1989, 4.1 percent pay increase were $26,458 in direct pay, $985 in direct benefits, and $4,630 in agency benefit costs. The total increase was $32,073. Nonpersonnel-related expenditures are anticipated to increase approximately $8,000. One point to note, however, is a noninflationary item, namely, a new lease for our office space. The potential rent increase estimated by GSA for FY 1990 is $28,000.

Senator Domenici. The fiscal year 1990 Reagan budget request holds funding for staff travel at the fiscal year 1989 funding level, but requests an increase of $13,000 in invitational travel above the fiscal year 1989 level. What is the justification for this increase in invitational travel?

Mr. Hawkins. Invitational travel is anticipated to increase because we are utilizing unpaid "thinkers" and "critics" to an ever greater degree. These "thinkers" and critics" are public and private experts from the Washington area and around the country whom we invite in for a day in groups of 15-20 to provide ideas, advice, counsel, and evaluations on each of the Commission's projects. Thinkers provide input at the beginning of a project, and critics provide input near the end of a project. This system is very effective, and nearly everyone we contact is willing to participate, and without pay, so long as we can reimburse their travel costs. We have found that the increases in invitational travel will more than pay for itself through increased productivity on reports

and decreased expenditures for hired critics and thinkers. Furthermore, it is critical that input for our work not be dependent on inside-the-beltway experts.

Senator Domenici. The appropriations justification for fiscal year 1990 indicates that outside income will for the first time be used in fiscal year 1989 to meet nondiscretionary funding requirements. Do you consider this inappropriate? If so, why?

Mr. Hawkins. Given the circumstances we are operating under today, Senator Domenici, I believe that it is proper for appropriations to meet nondiscretionary requirements. We are operating under the OMB staff ceiling for the ACIR. Our office space is not only utilized fully but is also cramped. We have absorbed all increases in personnel pay and benefits. Certain costs associated with personnel administration, telephone service, and printing are beyond our control. Thus, when appropriations cannot cover these minimal nondiscretionary costs, we are in trouble. Furthermore, shortfalls in appropriations coverage of nondiscretionary costs require us to use outside income to pay for those costs while, at the same time, reducing our ability to raise outside income. This puts us in another catch-22 situation.

Senator Domenici. In addition, trust fund contributions will be used for the first time in fiscal year 1989 to underwrite basic Commission research. Do you consider this inappropriate? If so, why?

Mr. Hawkins. My answer to this question is yes and no. As the Commission was originally designed, and as the Commission operated for more than 25 years, appropriations were intended to underwrite all basic Commission research. After all, research leading to public information and policy recommendations lies at the heart of the Commission's legislative mandate. In those days, outside income was a fringe benefit so to speak. Today, outside income is an absolute necessity. I believe, however, that appropriations should give the Commission at least a minimum basic research capacity so as to demonstrate the Federal government's commitment to intergovernmental cooperation, help support the independence of the Commission, advance the integrity of the Commission, and give the Commission a base from which to raise outside income.

My answer is "no" in the sense that there are many things the Commission can do and does do beyond a basic minimum of research and technical assistance.

Given today's Federal budget realities, outside income can be used to build a fully effective and respectable operation. We are prepared to do this, and have demonstrated an ability to do so.

Senator Domenici. There was a decline in the number of states contributing to the ACIR between fiscal year 1986 and 1987; is this trend continuing? How many contributing states were there in fiscal year 1988? How many states do you expect will make contributions to the ACIR in fiscal year 1989? Despite the number of contributing states, did the total amount of state contributions increase or decrease in fiscal year 1988?

Mr. Hawkins. There was a decline from 26 states in FY 1987 to 23 in FY 1988. Thus, the initial post-FY 1986 decline slowed in FY 1988. We hope to see an upward trend this year. The post-FY 1986 decline was due largely to "sticker shock" resulting from our follow-through on Congressional requests that we ask the states for larger contributions. The increased requests caused us a lot of problems, and a number of states ended up contributing nothing rather than their prior smaller amount. Given that many states operate on a biennial budget, the effects of this "sticker shock" were felt through FY 1987 and FY 1988.

We are working hard to increase the number of contributing states in FY 1989. As I mentioned earlier, we are up to 19 states so far, and we hope to get up to 26 by the end of the year. For the most part, once we can get a state back on board at a higher amount, I believe that we can keep it on board--barring a fiscal crisis in the state or the election of a budget-cutting governor.

In terms of total amounts, contributions increased from $84,750 in FY 1986 to $118,550 in FY 1987, but then decreased to $111,550 in FY 1988. Given that we have already reached $104,550 this year, we believe that total contributions will be about $125,000.

It is impossible to predict the number of states that will contribute in a current or future year. Almost anything can happen to hold up a contribution. For example, New York has appropriated its contributions to ACIR for FY 1987 and FY 1988, but we have yet to receive the funds. New Mexico, I am happy to say, has already sent its contribution for FY 1989.

ADVISORY COMMITTEE ON FEDERAL PAY

STATEMENT OF MARTIN L. DUGGAN, CHAIRMAN

ACCOMPANIED BY LUCRETIA D. TANNER, EXECUTIVE DIRECTOR

INTRODUCTION OF WITNESS

Senator DECONCINI. Our last panel this morning is the Advisory Committee on Federal Pay. Mr. Martin Duggan, chairman of the committee, will testify. Mr. Duggan, how are you today?

Mr. DUGGAN. Good morning, Mr. Chairman.

Senator DECONCINI. Mr. Domenici, how are you? You have submitted some sterling questions in your absence.

Senator DOMENICI. Probably better than I would do if I was here.

Senator DECONCINI. Oh, no question.

Senator DOMENICI. I am not feeling too good.

Senator DECONCINI. Mr. Duggan, if you would summarize your testimony, please.

Mr. DUGGAN. I certainly shall, Senator.

Senator DECONCINI. Unless the Senator from New Mexico has a statement.

Senator DOMENICI. No; thank you very much.

Mr. DUGGAN. Thank you, Mr. Chairman, and Senator Domenici. With me is Mrs. Lucretia Dewey Tanner, the executive director of the Advisory Committee on Federal Pay.

Senator DECONCINI. OK. Welcome.

ADVISORY COMMITTEE BACKGROUND

Mr. DUGGAN. And it has been our continuing honor to be the smallest agency in Government, and we take a little bit of pride in that. It also has been my privilege to have served as chairman since appointment by President Reagan in 1984, which means that I am in the sixth and final year of my chairmanship.

The Advisory Committee on Federal Pay serves as a clearinghouse of information and concerns for the white collar work force in the Federal Government, and our responsibility is to make annual recommendations to the President on pay adjustments that we feel are merited, warranted, I would prefer to say.

GAP WOULD BE GONE

If I could have just a moment to review the recommendations that we have made during the 6 years that I have been chairman to give you a feeling for what we have attempted to accomplish. The record would show that had our advice been accepted—and that is all we are, after all, is an advisory committee—had we been listened to by the administration and by the Congress, the pay gap which the Pay Agent reports to us annually, currently amounting

on average to 26 percent for the Federal work force, would have been evaporated.

The fact is we were not listened to altogether. We were listened to only halfway on average, and so while we feel that our recommendations are consistently sound, regretfully we cannot claim to have accomplished what we sought out to do in that sense. But I feel that the Committee, and this is based on my experience, Mr. Chairman, having had the pleasure of appearing before you for several years now, that the Committee serves a most useful role at a very low budget. The expenses of our two full-time staff are $205,000, whereas we, under the authorization, are entitled to three. That pays our rent, expenses involving my two colleagues on the Committee and myself when we are involved in official business, and we think that is a very low budget.

Now we have a respectful and cordial relationship with the Pay Agent, meaning the Director of the Office of Management and Budget, the Secretary of Labor, and the Director of the Office of Personnel Management. We also have a very cordial and respectful relationship with the professional associations and unions and independent organizations of Government employees that appear before us annually and make their concerns known.

ADVISORY COMMITTEE HEARINGS

Senator DECONCINI. Excuse me, Mr. Duggan. Do you have regular hearings for these people?

Mr. DUGGAN. Yes, sir; we do, annually. The procedure is this, Mr. Chairman. At dates agreed upon in late summer since our report is due to the President by September 1, we send out invitations to all concerned organizations. On the average I think about 16 different groups appear before our Committee on a day that we set aside in an atmosphere much like this, and we serve as——

Senator DECONCINI. Do they all attend?

Mr. DUGGAN. When I say on the average of 16, yes, Mr. Chairman, that is how many have been attending. We send out invitations to all interested parties.

Senator DECONCINI. Oh, you send out invitations to all, and you got 16?

Mr DUGGAN. That is about right, yes, sir.

Senator DECONCINI. How many is all?

Ms. TANNER. I would say about 20, 25 organizations.

Senator DECONCINI. 20 or 25.

Ms. TANNER. Yes.

Mr. DUGGAN. As a for instance, the major labor unions that represent Government employees, AFGE, NTEU.

Ms. TANNER. NTEU, National Treasury Employees Union.

Mr. DUGGAN. And so on, and professional societies, particularly——I should not say particularly, but notably, professional societies including engineers and people whose responsibility it is to maintain staffs. We annually hear complaints of the difficulty of an installation such as the Naval Shipyard in Charleston, SC, having difficulty recruiting qualified engineers out of college because of the disparity in pay between what they are able to offer and what is available in the private sector.

As a layman myself, Mr. Chairman, I picked up on this very quickly, that it is quite common for an employee of a defense contractor, whose employees after all are being paid with taxpayers' money ultimately, to be making considerably more than a person working full time on the Federal payroll at a shipyard, for instance. So this is the sort of thing that we have called attention to regularly, but as I say, we have been listened to, if I can put it that way, only about halfway.

Senator DECONCINI. Mr. Duggan, let me interrupt you.

Mr. DUGGAN. Yes, sir.

RECOMMENDATIONS TO QUAD COMMISSION

Senator DECONCINI. Along that line, how do you reconcile your testimony before the Quadrennial Commission recommending a $135,000 pay level for Congress, Federal executives, and judicial salaries while recommending an 8-percent increase for general schedule employees?

Mr. DUGGAN. Well, I can answer that very readily, sir, and I am proud to say that independently and without any coaching or consultation with anybody, and I have appeared before the Quadrennial Commission on previous occasions, back in 1985, I believe. The key to my recommendation was doing away with honoraria. I felt that this was a salary that was thoroughly in line with responsibilities for the office, and one if properly understood by all parties concerned might have been appreciated.

There has been no significant increase for members of Congress.

Senator DECONCINI. Well, 2 years ago there was a 15-percent increase.

Mr. DUGGAN. Right.

Senator DECONCINI. Did you recommend that or more at that time, do you know?

Mr. DUGGAN. No; we were not asked to at that time, as I recall. Help me out on that.

Senator DECONCINI. Were you asked to testify before the Quadrennial Commission?

Ms. TANNER. The Quadrennial Commission chaired by Mr. Ferguson, James Ferguson, who was chairman of the Quadrennial Commission at that time, chose not to have public hearings. Rather he did ask for testimony in written form which we did provide.

Senator DECONCINI. So he asked you for your views?

Ms. TANNER. Yes; he did.

Mr. DUGGAN. And we made the recommendation at that time.

Ms. TANNER. Yes; we did.

Senator DECONCINI. Did you make recommendations 2 years ago also?

Ms. TANNER. Yes; we did. And we also——

Senator DECONCINI. What did you recommend at that time, do you remember?

Ms. TANNER. It was in the $135,000 range.

Senator DECONCINI. At that time, too?

Ms. TANNER. Yes.

Senator DECONCINI. And subject to eliminating honoraria?

Mr. DUGGAN. Right.

Ms. TANNER. Correct.

LOCALITY PAY

Mr. DUGGAN. Also, I would like to stress, too, Mr. Chairman, when I assumed this position, I lay great stress on the desirability of locality pay, and I can recall testifying before the Quadrennial Commission. This subject did not really apply to the Quadrennial Commission, but the matter came up in questioning. This was when Mr. Brady was Chairman, Nicholas Brady, and when I mentioned the desirability of locality pay, one of the members of the Commission sharply disagreed and he even said that he thought it would be unconstitutional to pay Federal employees salary, say, in Little Rock, AR, one salary there and a different salary in New York and whatnot.

And some of the unions were very, if not hostile to the suggestion of locality pay, were at least not enthusiastic about it. But now we find during our annual hearings that there is a great deal of acceptance for the idea of locality pay because it is what will sell back home to the taxpayers who are the ultimate employers of these people, in our view.

Senator DECONCINI. One last question, Mr. Duggan.

Senator DOMENICI. On that one, might I just ask?

Senator DECONCINI. Yes, absolutely.

Senator DOMENICI. My hunch, however, on the latter that you just discussed is that those who would accept it out there in the field would start with the current pay, and say there are areas that should get more. You understand what I am saying?

Mr. DUGGAN. I understand what you are saying, yes, Senator.

Senator DOMENICI. I think that is the only way anybody would support it. You recall that prior to you President Carter recommended this. In fact, we had the only civil service reform under President Carter, and they had to throw out the idea of locality pay because it got so tough in terms of those representing civil servants.

Mr. DUGGAN. To administer?

Senator DOMENICI. No; politically it was dynamite.

Mr. DUGGAN. Right.

Senator DOMENICI. Because Federal employees did not want that.

Mr. DUGGAN. No; I understand that.

Senator DOMENICI. I am saying if you see a change in attitude it probably would start with, "Well, that is fine; nobody is overpaid regardless of the locale, so start with the current base, and if you have any locales that go up, they should go up." It would not be an adjustment in the other direction, I am sure.

Mr. DUGGAN. Right.

Senator DECONCINI. That is a good question. Did you recommend—excuse me, if you would yield—did you recommend a reduction?

Mr. DUGGAN. No.

Senator DECONCINI. Or did you recommend an adjustment for higher cost-of-living areas?

Mr. DUGGAN. Either way really.

Senator DECONCINI. Well, either way, which one did you recommend? Did you recommend reductions in some areas where the cost of living is less?

Mr. DUGGAN. If you adopt a system of locality pay, and it turns out that Federal employees are being paid above average in a certain labor market, then it would be the responsibility——

Senator DECONCINI. Then you would reduce it?

Mr. DUGGAN. Yes, sir.

Senator DOMENICI. Their point is there would be none.

Mr. DUGGAN. In fact, when we originally put great stress on this, and I do not claim to be the creator of this idea—it goes all the way back to the Hoover Commission, as I recall; correct?

Senator DOMENICI. Correct.

Mr. DUGGAN. But coming from where I do, I realized that it had some merit. I think the initial resistance on the part of the people we bounced this off was that it would mean automatic reductions. But when you look at New York City where separate bodies there insisted that they needed immediate 25-percent pay increase and so forth and the same situation to a lesser degree elsewhere, we are merely trying to give, you know, what we consider to be sound advice.

PAY FOR LAW ENFORCEMENT PERSONNEL

Senator DECONCINI. Well, there is a lot of merit to it, Mr. Duggan. I know particularly in law enforcement, we hear all the time that the cost of living in New York City as a DEA agent or a Secret Service agent is 20 to 35 percent more than what it is in Phoenix, AZ.

Mr. DUGGAN. I know that is a particular concern of yours, Senator——

Senator DECONCINI. And I think it is right.

Mr. DUGGAN [continuing]. From our previous conversation.

Senator DECONCINI. There is some flexibility now where the Directors of agencies can make some changes, but it is very difficult to get OPM to approve it.

Mr. DUGGAN. Special rates. And they want to put a lid on this.

Senator DECONCINI. Last year we asked you about pay comparability in the Federal law enforcement area. You stated at the time that no one approached the Committee to request your advice concerning Federal pay in this area. In the meantime, under the provisions of the Omnibus Anti-Drug Abuse Act of 1988, Congress directed the GAO to set up a National Advisory Commission on Law Enforcement to undertake a study on pay. Isn't this the type of work the Committee should be doing and has been doing?

Mr. DUGGAN. Well, we would certainly welcome it.

Senator DECONCINI. To have been directed to do it? And why would you not be doing that anyway? When you heard your testimony from 16 agencies, did you hear a lot about law enforcement inadequacy of pay, and if so, would that not have prompted you to do something? Maybe you did act but we did not know about it.

Mr. DUGGAN. Well, if I understand you, sir, under the Omnibus Anti-Drug Abuse Act of 1988, there has been a commission established; correct?

Senator DECONCINI. Right.

Mr. DUGGAN. And that——

Senator DECONCINI. Have you been contacted by that Commission?

Mr. DUGGAN. You have undertaken your own study.

Senator DECONCINI. Yes; the Commission has.

Mr. DUGGAN. And which is due out soon? No; we have not been asked.

Senator DECONCINI. My point is that when you have 16 people come, or entities come to you on the pay issue—maybe they did not raise the issue of pay for law enforcement personnel. How did you happen to miss doing a study on law enforcement pay? Or do you wait until somebody says, would you please do a study on this problem?

Mr. DUGGAN. Yes.

Senator DECONCINI. Or do you initiate studies yourselves?

Mr. DUGGAN. As a matter of fact, none of the groups that appeared before us specifically represented law enforcement.

Senator DECONCINI. Nobody in law enforcement appeared before your Committee?

Mr. DUGGAN. There are lawyers working for various departments of Government who appeared before our Committee accepting our invitation, but if you are talking about, for instance, the Drug Enforcement Agency, marshals, or people such as that specifically.

Senator DECONCINI. I was thinking of Federal employees, Treasury agents for example. Nobody mentioned them specifically?

Mr. DUGGAN. No; the Treasury employees union is very well represented in annual appearances before us, but if you will pardon my putting it in these terms, Senator, we do not go on fishing expeditions with these people either and say, hey, what is bothering you? We expect them to speak for themselves.

Senator DECONCINI. Well, maybe I am too close to it. I have been hearing about the pay inadequacies in the area of law enforcement for many years, and finally the drug bill was a vehicle to maybe do something about it.

I have no further questions, Mr. Duggan. I thank you for the great effort you put forth here. I yield to the Senator from New Mexico.

PAY ISSUE FOR OTHER GROUPS

Senator DOMENICI. I do also, Mr. Chairman. I have no questions. I am going to submit them. Let me suggest what I think is probably the reason—this is my own impression, Dennis, why they did not get something specific in law enforcement as to the underpay, and that is if you look across Government, the specialization areas such as engineering, auditors, scientists in all kinds of fields, that is a much larger group in the Federal Government than the law enforcement people, and the underpay there has been known for a long time, as long or longer than law enforcement. I think it gets more attention.

Senator DECONCINI. You are probably right.

Senator DOMENICI. Even up here I do not know if you recall, but my colleague, Senator Bingaman, 2 years ago through the defense authorization was trying to address the issue of scientists, engineers, physicists, and the like, auditors within the Feds, and tried to establish a better rate of pay. It got further than I ever thought because nobody seems to want to do that, but it is so critical, but I think the House was not interested or it would have been done.

DUGGAN'S UNIFORMED FRIENDS

Mr. DUGGAN. Actually, Senator, in my professional life as a newspaper editor, which I was before retiring in 1984 and accepting the honor of this, I had more occasion to deal with law enforcement officers on a very intimate basis. I had the honor of being the president of an organization called the Backstoppers, which provides financial assistance to the widows of police officers and firefighters who are killed in the line of duty. This organization—like to see one in every State—wipes a family of a police officer or firefighter killed in the line of duty completely free of debt, and you can imagine what that means to a wife, particularly one raising a family, say, of five or six children. When I say wipe them free of debt, I mean all existing obligations at the time she loses her husband, including home mortgages which are picked up and paid off over a period of time, so in some cases we might be relieving a family of debts amounting to a couple of hundred thousand dollars by today's housing costs. I think there is an awful lot that can be done encouraging cooperation in the private sector for appreciation of law enforcement officials, too.

And I say, I have had the privilege of being personally involved in that sort of thing back home in St. Louis.

Senator DOMENICI. Thank you very much.

Mr. DUGGAN. Thank you, Mr. Chairman.

SUBMITTED QUESTIONS

Senator DECONCINI. Thank you, Mr. Duggan.

We have some questions, Mr. Duggan, which we will submit to you.

Mr. DUGGAN. Very good.

Ms. TANNER. Thank you.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR DECONCINI

1. The FY90 budget request for the Advisory Committee is the same as the FY89 enacted level of $203,000 and 3 FTEs. I understand that your FY90 budget request to OMB called for an additional $100,000 over the '89 level.

   Can you explain to the Committee what additional activities were proposed for the additional $100,000?

Answer

The additional $100,000 was requested to fund research studies to improve the Federal compensation system and to bring private sector salary practice information to the Federal Government.

Specifically, we suggested three research projects that could be undertaken: (1) A study of options on how to develop a Federal wage system based on local labor market conditions; (2) a survey of private sector firms to determine their local labor market policies and the types of procedures they use for implementing them; and (3) a study of the changing nature of the employment at will doctrine. In the past, the Advisory Committee has identified other research studies that should be undertaken.

2. Your testimony states that your 1988 annual report commended the President and the Congress for enacting a 4.1 percent pay increase for Federal employees for calendar year 1989, but also recommended an additional 4% increase effective October 1, 1988. How was this additional 4% arrived at?

Answer

The additional 4 percent was recommended because no progress had been made to eliminate the existing pay gap. With the known budget constraints facing Congress, it would have been unrealistic to suggest a higher pay increase. Additionally, 8 percent had been recommended in the Committee's 1987 report to the President, and the Committee believed that this was an appropriate amount to recommend in 1988 as well.

We have been urged by Congress and the employee organizations with which we meet to develop a long-range approach for eliminating the pay gap. The additional 4 percent would have been a step in this direction. The Committee's report to the President also recommended that the 26-percent pay gap be phased out over the next 4 years.

During my tenure as Chairman of the Advisory Committee, I would like to point to our record of recommended pay increases and the amounts actually granted. Over the 5 years, the Committee has recommended a total of 30.2 percent versus the actual amount granted, 14.6 percent. If the Committee's recommendations had been followed, there would be no gap today. Although the amounts recommended each year appeared modest, they were consistent and, we believe, fair.

3. With all of the studies being conducted by Federal employee organizations, private sector institutes and the Office of Personnel Management, why do we need to provide Federal funds to an independent agency to conduct similar studies and make similar recommendations?

Answer

The Advisory Committee does not believe it has or will in the future duplicate studies conducted by any other group. For example, in 1987 the Advisory Committee, in cooperation with the American Compensation Association and The Wyatt Company, conducted a survey to determine the pay setting practices of the private sector. The results of the survey yielded valuable information about locality pay practices, merit pay, the influence of the government's wage scale on industry, and many more issues. These findings, we believe, were useful to the Federal Government in developing its own agenda, such as re-thinking the advisability of pursuing a broad banding pay program systemwide. As part of the Fiscal Year 1990 budget, the Committee had recommended that a further study be done to determine options for developing a Federal pay system based on local labor market conditions. The Office of Personnel Management will be undertaking this project and we look forward to seeing the study they've contracted for with The Wyatt Company. This is only one of many studies that need to be undertaken but, as far as we can determine, no one is doing them.

4. Your testimony states that the Advisory Committee has two missions: One is to make recommendations to the President and the Congress on Federal pay; the other is to carry out a labor relations mediation role. How are the Committee's time and resources allocated to these two missions?

5. In FY89, how many labor relations mediation cases do you expect to handle? How does this compare to your workload for FY88?

6. What types of mediation cases does the Committee get involved in?

Answer

The Advisory Committee's role should not be confused with the mediation functions offered by the Federal Mediation and Conciliation Service and the Federal Impasses Panel. The mediation role the Advisory Committee refers to is one of resolving disputes between the Pay Agent (the Directors of the Office of Management and Budget and the Office of Personnel Management and the Secretary of Labor) and the Federal Employees Pay Council (representatives of unions in the Federal white-collar work force).

Repeatedly, the Advisory Committee has made efforts to bring these two groups together to discuss the pay survey and general pay issues. Unfortunately, these overtures have not been successful. One of the reasons may very well be the high turnover of political appointees. For example, during my tenure there have been four different Directors (including designees) of the Office of Management and Budget and the Office of Personnel Management, as well as four Secretaries of Labor. Not only have the top officials changed, but their subordinates have as well. These personnel changes and personality differences make it extremely difficult to discuss long-range changes and, what might be thought to some, secondary and technical issues of their department. However, on an informal basis the Committee is a conduit of ideas between the two groups.

We are hopeful that the Advisory Committee in this new Administration will be able to regain its mediation role and provide the impartial assistance that is vitally needed to resolve the very serious pay problems that exist and to jointly develop a workable compensation program that is both effective in maintaining a high level of government services and is fair to the work force.

7. Your testimony states that the Advisory Committee's role has been expanded to review pay policies and practices in addition to pay rates. You have identified many problems with the current compensation system. Has the Committee proposed any solutions?

Answer

One of the major problems the Advisory Committee has identified is the need to introduce a local labor market method of paying Federal white-collar employees to replace the General Schedule single schedule in all parts of the country. Clearly, one of the reasons the public may be less sympathetic to pay increases for Federal workers is that in some areas it appears that they are paid more than employees in the private sector. In all likelihood there are probably few areas where this is the case now because the pay gap has grown so wide. The Committee believes that a system could be introduced painlessly and to spare actual reductions in pay, if any were needed, by maintaining the current rate until the area rates had been raised to the existing level. We also believe that a phased-in locality system could operate to provide relief to the most critical areas in terms of new recruiting and retention problems.

In an effort to establish fairness and equity by adhering to the principles of equal pay for equal work, stated as one of the principles of the Federal Pay Comparability Act of 1970, enormous inequities have developed. Should secretaries performing the same job in New York City and San Francisco be paid the same as those in Lubbock, Texas and Jackson Mississippi? Although there are by far more secretaries in these large metropolitan areas than in the smaller lower paid communities, perception is that overpayment in some areas translates into higher wages throughout the system. In the meantime, the government suffers recruitment and retention problems because of the national scale in many areas of the country. We are delighted that OPM has undertaken a study to determine how such a pay system could be established and the estimated cost of implementing it.

8. Your testimony is critical of the OPM demonstration projects because they tend to give a splintered approach to pay reform. However, aren't the demonstration projects experimental in nature and valuable tests of some of the current pay reform proposals?

Has the Advisory Committee studied and evaluated any of these projects as a part of your policy-review mandate?

Answer

The Advisory Committee does, in fact, favor demonstration projects; however, legislative proposals over the past 2 years suggested taking as many as 250,000 people out of the General Schedule and placing them in demonstration projects. This number, along with the 10 percent of the white-collar workers under special rates, would exclude about 30 percent from the General Schedule.

We believe that experimentation is good and necessary but, when the numbers in such projects are excessive, these are no longer demonstration projects but, in fact, other pay systems. When such large numbers are removed, and there is no provision for bringing them back into the system, new permanent systems have been created, further balkanizing the Federal work force.

QUESTIONS SUBMITTED BY SENATOR DOMENICI

1. The Fiscal Year 1990 budget request for the Advisory Committee on Federal Pay proposes a freeze at the Fiscal Year 1989 funding level. What is the amount associated with both inflation and increased personnel compensation and benefits that you will be required to absorb as a result of this funding level?

Answer

The Advisory Committee budget for Fiscal Year 1990, frozen at the 1989 level, will absorb the 2-percent pay increase proposed by the President's budget, $2,540, although we would hope that the Administration and Congress heed the Committee's recommendations, which may call for more substantial increases. Other costs, such as printing and reproduction, travel, and supplies are likely to increase as well, and these increases will be absorbed.

2. For Fiscal Year 1990, a reduction of $6,000 below the Fiscal Year 1989 level is proposed in "other services." What impact will this have on your current activities?

Answer

In reviewing the 1990 estimates of expenditures, it is very likely that rental payments to GSA will increase by $4,000, while, on the other hand, the payment to GSA for other services, including the computerized payroll and purchasing systems, may, in fact, be at a level below the 1989 level. The Advisory Committee has been operating at approximately the same funding level for the past 5 years. With expenses increasing over this period, the Committee is operating at the very minimal level and is not able to conduct studies on a contract basis, even at modest costs. It is able to function because it has been historically frugal and, it should be noted, has returned to the Treasury large sums of unspent dollars allocated in its budget over the years.

3. In addition to preparing an independent annual report to the President containing recommendations for annual pay adjustments affecting Federal white-collar employees covered by the General Schedule, the Committee provides a labor-mediation role between the President's Pay Agent and the Federal Employees Pay Council and is responsible for making recommendations to the President for improving Federal compensation policies and practices.

What portion of the Committee's budget is spent on each of these three separate responsibilities?

How did the Committee carry out its labor relations-mediation role last year? What problems arose between the President's Pay Agent and the Federal Employees Pay Council that were mediated by the Committee?

What specific recommendations did the Committee make to the President for improving Federal compensation policies and practices in Fiscal Year 1988?

Answer

The Advisory Committee has repeatedly attempted to initiate a dialogue between the Pay Agent and the Federal Employees Pay Council but this body has been unwilling to reconvene to discuss pay issues. The Pay Agent and Pay Council have not met in recent years, although the pay matters in dispute have worsened and have remained unresolved. We are

again informally offering our services to provide a forum for discussing the OPM locality pay practices study that The Wyatt Company is currently undertaking.

With two full-time staff people, it is extremely difficult to determine how much time is devoted to the remaining functions, in addition to all the administrative matters that the Advisory Committee is required to undertake, such as developing a Drug Free Work Place Program, budget matters, preparation of testimony and other functions.

For a number of years, the Advisory Committee has recommended that the Federal Government adopt a white-collar pay system based on local labor market rates, a concept that was implemented for Federal blue-collar workers over 100 years ago. It has finally become clear to many groups that the current comparability system and nationwide salary structure is inadequate to meet staffing needs and requires a complete overhaul.

4. Recommendations and information on Federal compensation policies and practices and pay comparability assessments are available from a number of sources (GAO, the Office of Personnel Management, various unions representing Federal workers, the President's Pay Agent, and local Federal executive Boards, to name a few). What separate and distinct role does the Committee have in these issues and what information does it provide that is not available from these other sources?

Answer

The Advisory Committee believes it provides a unique role by offering sound, impartial advice to the President and Congress. Its annual report to the President, special reports, and other papers do not duplicate any other efforts in or out of government. Our reports have been used and commended by the Chairman of the House Post Office and Civil Service Committee, unions and others.

Permit us to quote from a joint letter sent by William D. Ford, Chairman of the Post Office and Civil Service Committee, and Gary L. Ackerman, Chairman of the Subcommittee on Compensation and Employee benefits, to the Honorable Jamie L. Whitten, Chairman, House Committee on Appropriations:

> "We are writing to advise you and the other House conferees of our firm opposition to the Senate amendment to H.R. 4775, the Treasury, Postal Service, and General Government Appropriations Act, 1989, which deletes funding for the Advisory Committee on Federal Pay. . . . We believe that the President should not be deprived of the valuable assistance provided by the Advisory Committee.
>
> "The Advisory Committee has also been an active participant in discussions of reform of the Federal pay system. In the 99th Congress and again this Congress, the Advisory Committee has testified before the Committee on Post Office and Civil Service and has provided helpful insight and expertise on matters involving Fedeal pay. Last year, the Advisory Committee released a valuable study of private sector pay setting practices entitled 'Salary Management Practices in the Private Sector.' We expect and hope that the Advisory Committee will continue to play an active role in discussions of Federal pay reform."
>
> The Committee was most gratified when Chairman Ford and Mary Rose Oakar, then Chair of the Subcommittee on Compensation and

Employee Benefits, jointly wrote me a letter congratulating the Committee's 1984 report.

Additionally, our reports have been favorably received by employee unions and professional associations that have cited them in their own publications. Our reports have also been referenced by the Congressional Budget Office and the General Accounting Office. We have shared our reports with The National Commission on the Public Service (the Volcker Commission) and have received very favorable comments about their value to their deliberations.

5. What research on pay and benefit issues for Federal workers did the Committee undertake in Fiscal Year 1988? What issues are under study by the Committee in Fiscal Year 1989?

Answer

In Fiscal Year 1988, the Advisory Committee, in cooperation with the American Compensation Association and The Wyatt Company, conducted a study of "Salary Management Practices in the Private Sector," which was widely distributed and extremely well received. In addition, the Advisory Committee contracted with The Wyatt Company to study and compare Federal salaries for selected occupations in the private sector. This private sector information is available from the data base developed by the Executive Compensation Service (ECS), a survey subsidiary of Wyatt. The Committee contracted for this survey as a pilot project and the findings, which confirm the BLS Professional, Administrative, Technical and Clerical Survey results, were used for internal purposes only.

The Advisory Committee has no plans to contract out for any research surveys in FY 1989 because of funding limitations. However, it plans to look, in-house, at a number of issues and comment on them in its annual report.

6. I cannot disagree with your point that we are witnessing more and more agencies and bureaus calling for exceptions to the General Schedule salary structure and that rather than allow this splintering of the current Federal pay system, we should revamp the system entirely.

You indicate that 10 percent of the white-collar General Schedule is under the special rate program. How does this compare with previous years? Are the special rates being granted comparable with local labor market wages?

What are the Federal Government's specific recruitment and retention problems? Do you have this information by agency and occupational category? If so, would you please provide it for the record.

Answer

The 10 percent of the white-collar General Schedule on special rates is at an all time high. The growth in the use of special rates is traced in a report by the GAO, "Federal White-Collar Special Rate Program," GAO/GGD 84-54, March 30, 1984:

> "While the overall size of the federal nonpostal white-collar work force has remained relatively stable at about 1.3 million employees, the numbers and types of occupations for which the government is experiencing recruitment and retention problems have increased. From fiscal year 1977 through fiscal year 1983, the number of positions covered by special rates increased about 325 percent, from approxi-

mately 8,000 to 34,000. During the same period, the number of special rate authorizations for specific occupations or areas grew about 130 percent, from 57 to 132. As a percentage of the total work force, the number of special rate employees has increased from .6 percent to 2.1 percent."

As pointed out, this growth has been dramatic and, according to OPM, additional requests from agencies are being made regularly.

The New York Federal Executive Board has compiled one of the most comprehensive studies on recruitment and retention problems. This report, a massive document too lenythy to be included here, has been submitted to OPM as evidence that an across-the-board 25 percent pay increase is necessary for Federal employees in New York City and Long Island. Turnover data are supplied for 81 occupations and our understanding is that if OPM still rejects the special rate request of 25 percent for this geographic location, the FEB will provide data for the remaining 204 occupational series.

We understand that, even with special rates, which add as much as 30 percent to salaries, the top or Step 10 of the grade, agencies are experiencing recruitment and retention difficulties for specific occupations. Aside from anecdotal hearsay, however, more concrete nationwide information is not available.

SUBCOMMITTEE RECESS

Senator DECONCINI. The subcommittee will stand in recess until 9:30 a.m., Friday, when we will take testimony from the Secret Service and other agencies.

[Whereupon, at 11:20 a.m., Wednesday, March 1, the subcommittee was recessed, to reconvene at 9:30 a.m., Friday, March 3.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1990

FRIDAY, MARCH 3, 1989

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9:30 a.m., in room SD–116, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present: Senators DeConcini, Mikulski, Domenici, and D'Amato.

DEPARTMENT OF THE TREASURY

U.S. SECRET SERVICE

STATEMENT OF JOHN R. SIMPSON, DIRECTOR

ACCOMPANIED BY:

STEPHEN E. GARMON, DEPUTY DIRECTOR
DAVID C. LEE, ASSISTANT DIRECTOR FOR ADMINISTRATION
GUY P. CAPUTO, ASSISTANT DIRECTOR FOR PROTECTIVE OPERATIONS
JOSEPH R. CARLON, ASSISTANT DIRECTOR FOR PROTECTIVE RESEARCH
GARRY M. JENKINS, ASSISTANT DIRECTOR FOR INVESTIGATIONS
DON A. EDWARDS, ASSISTANT DIRECTOR FOR OFFICE OF TRAINING
FRANK PALMER, CHIEF OF FINANCIAL MANAGEMENT DIVISION
DAVID M. NUMMY, ACTING ASSISTANT SECRETARY OF THE TREASURY FOR MANAGEMENT

OPENING REMARKS

Senator DECONCINI. The Subcommittee on Treasury, Postal Service, and General Government will come to order. This morning the subcommittee will be taking testimony from witnesses representing the U.S. Secret Service, the Bureau of Alcohol, Tobacco and Firearms, and the Federal Law Enforcement Training Center.

We are honored to have testifying on behalf of these outstanding law enforcement agencies, Mr. John Simpson, Director of the Secret Service; Mr. Stephen Higgins, Director of the Bureau of Alcohol, Tobacco and Firearms; and Mr. Charles Rinkevich, Director of the Federal Law Enforcement Training Center.

Before we begin, I want to take the opportunity to express my appreciation to the directors of each of these agencies for the out-

standing effort they have made in reducing crime and violence in this country, by helping us rid the streets of the drug-related crimes that are literally crippling our urban areas and causing damage that may be beyond repair. Each of the agencies here today makes its own very unique and important contribution to law enforcement. Their leadership, as well as the agents they have trained and deployed in the streets of our Nation, will have a great deal to do with winning the war on drugs.

Each one of you, I am sure, takes great pride in the personnel that you have, in the commitment they have and the risks that they take every day. I truly admire them and would like you all to pass that on to them.

We will begin with you, Mr. Simpson. Because of limited time, and also because we know you have got many things to do back at your shop, if you would just summarize your statement, we will ask you a few questions.

STATEMENT OF JOHN SIMPSON

Mr. SIMPSON. Yes, sir.

I would like to submit a long statement for the record if I may, Mr. Chairman.

Senator DECONCINI. Without objection, it will appear in the record.

Mr. Domenici will be down shortly. He is at a budget meeting this morning.

Mr. SIMPSON. To save you time, Mr. Chairman, I will try to summarize my statement very quickly. There are a few things that I would like to address though.

FISCAL YEAR 1990 APPROPRIATION REQUEST

The pending appropriation request for fiscal year 1990 totals $368,401,000, an increase of $10,901,000 over the $357,500,000 appropriated for fiscal year 1989. This request reflects program increases of $18,588,000, funds to cover cost increases and maintain our current operating level of $11,090,000, and a reduction of $18,777,000 for nonrecurring costs.

The program increases will provide for the safety of our protectees, allow improvement in our daily operations, enable technology enhancements, further secure the White House complex and the Vice President's residence, and continue our efforts to consolidate all headquarters activities at one location.

PAY AND RETENTION ISSUES

There is a subject, Mr. Chairman, that I feel very strongly about and I would like to address. I know that you are interested in it also. I think that if you speak to the directors and administrators of the other law enforcement agencies, they will pretty much echo the same feelings that I have.

Before I discuss our budget request, Mr. Chairman, I wish to bring to your attention a situation that has developed into a significant problem; our ability to attract and retain the best available employees. This problem stems from the Government's difficulties

in competing with non-Federal entities in attracting and retaining qualified and talented men and women. By the next Presidential campaign, in 1992, when one-third to one-quarter of our law enforcement personnel will be eligible to retire, the potential applicant pool of men and women between the ages of 21 and 30 will be at its lowest point since World War II. Without the ability to attract and retain their replacements now, the future of our operations is very seriously threatened.

I am encouraged at the establishment of the National Advisory Commission on Law Enforcement to address this problem. I and my staff are ready to work with anyone and everyone to do all that is necessary to see that this issue is properly addressed and quickly resolved. Regardless of the resolution to our dilemma, it must be achieved soon, Mr. Chairman, very soon. The continued effectiveness of our operations critically depends on finding a solution to this problem.

I believe, Mr. Chairman, if you speak to my distinguished colleague, the Director of the Bureau of Alcohol, Tobacco and Firearms, Mr. Stephen Higgins, he will echo my sentiments.

PROTECTIVE ACTIVITY

Now, Mr. Chairman, I would like to more directly address the issue of the Service's fiscal year 1990 budget request.

One of our foremost goals is the effective and efficient utilization of our personnel and other resources in the performance of our protective mission. Achieving this goal has recently been quite challenging.

The beginning of fiscal year 1988 saw the Presidential campaign effort well underway. Protection of candidates and, subsequently, candidate nominees and their spouses formally began on November 23, 1987. Protection ended in November 1988, and included 8,659 campaign protective sites. Substantial planning for the new President and Vice President details as well as a new former President detail continued into fiscal year 1989. Preparations for the inauguration in January 1989 constituted a major protective endeavor.

In fiscal year 1988, the Secret Service's permanent protectees included President Reagan and Mrs. Reagan, and members of their family; Vice President and Mrs. Bush; former Presidents Carter and Ford and their spouses; and former First Lady Mrs. Johnson. These protectees traveled to 3,085 domestic and 132 foreign cities during fiscal year 1988.

Numerous trips are already planned for newly elected President Bush and Vice President Quayle during fiscal year 1989. As a matter of fact, we have already been on a couple.

With respect to dignitary protection, a multitude of significant events occurred in fiscal year 1988, prompting an unusually large number of substantial foreign dignitary visits for an election year. These visits averaged 5.8 days each.

General Secretary Gorbachev and other Soviet officials received our protection during the summit meeting in December 1987.

With a new President and Vice President, we expect foreign dignitary visits to increase substantially during fiscal years 1989 and 1990.

Fiscal year 1988 was also a busy one for us in the area of property protection, beginning with the transition for the Western Protective Division. Initial preparations were begun for the former President's ranch to become a secondary protective site. Also, major security preparations were taken at the former President's new Bel Air residence.

The Service continues to upgrade and enhance security systems at the White House complex and the Naval Observatory. Substantial improvements in facility safeguards at these sites are planned in fiscal years 1989 and 1990.

PROTECTIVE RESEARCH

Security enhancements to personally owned properties of President Bush and Vice President Quayle will continue to evolve during fiscal year 1989.

We improved the security of our communications during fiscal year 1988 with voice privacy radio systems utilized in support of the Democratic and Republican Conventions, Presidential debates, and General Secretary Gorbachev's visit to New York City. Over half of our remote sites were brought on line with the Nationwide Communications Network.

A new temporary data processing center became operational, and construction began on a permanent facility which will backup our headquarters center. This fiscal year and next, the Nationwide Communications Network will be fully implemented and expanded to provide support to overseas field offices and temporary protective trips.

During fiscal year 1988, the Service continued to expand its analytical capabilities in regard to terrorist activity. This fiscal year and next, we plan to continue development of a computerized data base to analyze terrorist threat information.

INVESTIGATIVE ACTIVITY

In addition to our protective activity, the Service has expanded investigative jurisdictions. In fiscal year 1988, resident agencies were established in Bonn, West Germany; Bangkok, Thailand; Bakersfield, CA; and Saginaw, MI, to keep pace with burgeoning investigations.

There were 297,135 case receipts and pending investigations last fiscal year in the areas of debit and credit card fraud, electronic fund transfer fraud, computer fraud, food coupon fraud, counterfeiting, and check and bond forgery. An estimate of cases to be received in fiscal year 1989 exceeds our fiscal year 1988 figure by 11 percent. Increasingly, our agents are becoming involved in more complex investigations involving higher dollar figures, computer technology, and, not surprisingly, drug overtones.

In fiscal year 1988, we were able to suppress $112 million in access device and computer fraud. This represents an increase of 9 percent over fiscal year 1987. The increase was accomplished despite the fact that the campaign sharply impacted on the number of staff-hours we were able to dedicate to fraud investigations.

The combined actual and potential fraud we observed in fraud-related cases in which we made arrests during fiscal year 1988

amounted to $181 million, an increase of 11 percent over fiscal year 1987.

The Service has made every effort to streamline the number of staff-hours devoted to fraud investigations. We accept only those investigations that are worthy of Federal intervention.

The number of computer-related fraud cases the Service is investigating has steadily increased. To meet this challenge, in fiscal year 1988, the Service established a computer diagnostic center to review and evaluate computer fraud evidence gathered from our investigations. Last fiscal year, the Service continued to expand fraud investigations in the airline and telecommunications industries. In fiscal years 1989 and 1990, the Service will continue to assist the various industries victimized by fraud schemes within our criminal jurisdictions.

In fiscal year 1988 domestic note-passing activity increased by 23 percent. Of the known $121.6 million in counterfeit notes and coins produced in fiscal year 1988, $110.1 million was confiscated before it could be passed on the public. This represented a 76-percent increase over 1987 and the highest seizure total in our history.

Federal Reserve banks and commercial banks are required by statute to forward all counterfeit currency to the Secret Service, which is subsequently counted by our field offices. In fiscal year 1988, our field offices counted a total of $11.5 million in counterfeit notes that were passed on the public.

We believe the overseas offices established last fiscal year are a cost-effective deterrent to the foreign counterfeiting of U.S. currency. Since 1986, there has been a 20-percent decrease in the percentage of notes passed domestically that were printed overseas.

The financial impact of closed forgery cases in fiscal year 1988 was $47 million. Forged U.S. checks received for investigation totaled 100,000. Cases involving a total of 90,000 forged checks were closed resulting in 2,670 arrests. Bond forgery case units increased from 4,261 in fiscal year 1987 to 5,000 in fiscal year 1988. The number of closed cases was 5,000, resulting in approximately 30 arrests.

As mentioned earlier, we are increasingly seeing ties between our traditional jurisdictions and drugs. To deal with this new phenomenon, a Financial Crime and Drug Money Laundering Unit will be established within the Secret Service in fiscal year 1989. Its primary purpose will be to actively pursue cases that come to our attention which involve drugs. This unit will also develop a strategy and process to assist State and local agencies in their efforts to suppress drug profiteering.

TRAINING

During fiscal year 1988, our Office of Training initiated plans for an Ethics Awareness Program and a revised Management Development Program. Sensitivity training was implemented, and a pilot course was presented to selected personnel in order to assess its effectiveness. A working group was established to address AIDS in the workplace from a law enforcement perspective. These programs will be expanded this fiscal year and in fiscal year 1990. Also, drug awareness training will be introduced.

Development of the James J. Rowley Training Center with eventual completion of the revised master plan remains a priority for the Secret Service. The security and computer building, protective driver training course, simulated airport apron, and water tower are scheduled for completion this spring. Construction of the tactical response training area and observation tower will commence this summer with completion expected in the spring of 1991. In January 1989, final plans were completed for the perimeter road network and physical training building. Construction is scheduled to begin this summer with completion in the fall of 1990 and the summer of 1991. Funds made available by Congress in fiscal year 1989 will be used for the remaining phases of this development.

EQUAL EMPLOYMENT OPPORTUNITY

Although much success has been achieved in the area of equal employment opportunity, our efforts must continue to increase female and minority employment in our Special Agent and Uniformed Division officer ranks. Uniformed Division recruitment teams visited 26 cities last fiscal year to administer employment examinations. Minorities and females represented 41.6 percent of Uniformed Division applicants, and they constituted 41.9 percent of Special Agent applicants. Minority and female hires composed 24.8——

Senator DECONCINI. Can I have those figures again?

Mr. SIMPSON. Yes, sir.

Minorities and females represented 41.6 percent of Uniformed Division applicants, and they constituted 41.9 percent of Special Agent applicants. Minority and female hires composed 24.8 percent of Uniformed Division hires and 30.6 percent of Special Agent hires.

Senator DECONCINI. That includes women and they are considered a minority?

Mr. SIMPSON. Yes, sir.

Senator DECONCINI. Do you have a breakdown? Maybe you can give me that.

Mr. SIMPSON. Yes; we can give you a breakdown, sir.

Senator DECONCINI. OK.

Mr. SIMPSON. We can supply it for the record.

Senator DECONCINI. Unless you know it offhand. I would like to know the overall percentage of Hispanics, Asians, blacks, and women employed by the Secret Service.

Mr. SIMPSON. Why don't we supply that for the record? I will give you the numbers but not the percentages.

Senator DECONCINI. Without objection, that will be included in the record.

Mr. SIMPSON. The Service is proud of the significant progress that has been made in the area of minority and female hiring, and we intend to continue these efforts.

[The information follows:]

The following charts represent minority and female applicants and actual hires for Uniformed Division and Special Agent positions during fiscal year 1988.

Recruitment Statistics for FY 1988

A. Uniformed Division Officer Applicants	
White Males	2,496
White Females	273
Black Males	1,085
Black Females	236
Hispanic Males	86
Hispanic Females	74
Asian/Pacific Islander Males	16
Asian/Pacific Islander Females	3
American Indian Males	0
American Indian Females	0
Others	4
Total	4,273
Total Minority/Females	1,777
B. Special Agent Applicants	
White Males	546
White Females	128
Black Males	139
Black Females	34
Hispanic Males	64
Hispanic Females	16
Asian/Pacific Islander Males	9
Asian/Pacific Islander Females	1
American Indian Males	2
American Indian Females	1
Total	940
Total Minority/Females	394

Hiring Statistics for FY 1988

C. Uniformed Division Officer Hires	
White Males	94
White Females	8
Black Males	16
Black Females	1
Hispanic Males	6
Hispanic Females	0
Asian/Pacific Islander Males	0
Asian/Pacific Islander Females	0
American Indian Males	0
American Indian Females	0
Total	125
Total Minority/Females	31
D. Special Agent Hires	
White Males	43
White Females	11
Black Males	4
Hispanic Males	3
Asian/Pacific Islander Males	1
Total	62
Total Minority/Females	19

SUMMARY

Mr. SIMPSON. Mr. Chairman, fiscal year 1988 was a fulfilling and challenging year for the Secret Service. Demanding protective responsibilities resulted from the campaign, heavy permanent protec-

tee travel, and significant foreign dignitary visits. Major technical security enhancements to our protectees' properties were made, advanced information systems technology was effected, and new resident agencies were established to deal with the escalating financial impact of our investigative jurisdictions. Although we faced enormous requirements during a campaign year, we continued to provide a consistent and high caliber of training to meet the multitude of challenges that faced us.

Fiscal year 1988 was one of accomplishment and success due to the diligent efforts of our employees. Their creativity and progressive professionalism will surely reflect praise and credit on this organization in the future. Due to the effort and expert performance by our personnel, as well as security personnel from other law enforcement agencies, and State and local governments, fiscal year 1988 was an overall success for the Secret Service in accomplishing its protective and investigative mandates.

I would also like to thank Director Higgins publicly, sir, if I may, for the record, for all his help in the last campaign. He and the people who work for him were exceptionally diligent, professional, and gave us a great deal of help.

I would also like to say, sir, that I am always appreciative of this subcommittee's understanding and support of the Secret Service. I thank you for all your past endeavors and, I know, your future endeavors. Mr. Chairman, this concludes my statement. I will be pleased to answer any questions you or the other members of the subcommittee may have.

PREPARED STATEMENT

Senator DECONCINI. Mr. Director, thank you for those remarks and that statement.

Without objection, your prepared remarks will be inserted into the record.

[The statement follows:]

STATEMENT OF JOHN R. SIMPSON

Mr. Chairman and members of the Committee, I am pleased to be here today to present the fiscal year 1990 appropriation request of the United States Secret Service.

INTRODUCTION OF ASSOCIATES

With me today, Mr. Chairman, are the Deputy Director, Mr. Stephen E. Garmon, Mr. David C. Lee, Assistant Director for Administration, Mr. Guy P. Caputo, Assistant Director for Protective Operations, Mr. Joseph R. Carlon, Assistant Director for Protective Research, new staff member Mr. Garry M. Jenkins, Assistant Director for Investigations, Mr. Don A. Edwards, Assistant Director for Training, and Mr. Frank Palmer, Chief of our Financial Management Division. A biographical sketch of Mr. Jenkins was submitted for the record.

FISCAL YEAR 1990 APPROPRIATION REQUEST

The pending appropriation request for fiscal year 1990 totals $368,401,000, an increase of $10,901,000 over the $357,500,000 appropriated for fiscal year 1989. This request reflects program increases of $18,588,000, funds to cover cost increases and maintain our current operating level of $11,090,000, and a reduction of $18,777,000 for non-recurring costs. The program increases will provide for the safety of our protectees, allow improvements in our daily operations, enable technology enhance-

ments, further secure the White House Complex and the Vice President's residence, and continue our efforts to consolidate all Headquarters activities at one location.

PAY AND RETENTION ISSUES

Before I discuss our budget request, I wish to bring to your attention a situation that has developed into a significant problem, our ability to attract and retain the best available employees. This problem stems from the Government's difficulties in competing with non-Federal entities in attracting and retaining qualified and talented men and women. By the next Presidential Campaign, in 1992, when one-third to one-quarter of our law enforcement personnel will be eligible to retire, the potential applicant pool of men and women between the ages of 21 and 30 will be at its lowest point since World War II. Without the ability to attract and retain their replacements now, the future of our operations is very seriously threatened.

I am encouraged at the establishment of the National Advisory Commission on Law Enforcement to address this problem. I and my staff stand ready to work with anyone and everyone to do all that is necessary to see that this issue is properly addressed and quickly resolved. Regardless of the solution to our dilemma, it must be achieved soon. The continued effectiveness of our operations critically depends on finding a solution to this problem.

PROTECTIVE ACTIVITY

And now I would like more directly to address the issue of the Service's fiscal year 1990 Budget Request. One of our foremost goals is the effective and efficient utilization of our personnel and other resources in the performance of our protective mission. Achieving this goal has recently been quite challenging.

Campaign

The beginning of fiscal year 1988 saw the Presidential Campaign effort well underway. Protection of candidates and, subsequently, candidate nominees and their spouses formally began on November 23, 1987. Protection ended in November, 1988, and included 8,659 campaign protective sites. Substantial planning for the new President and Vice President details as well as a new former President detail continued into fiscal year 1989. Preparations for the Inauguration in January, 1989, constituted a major protective endeavor.

Permanent Protection

In fiscal year 1988, the Secret Service's permanent protectees included President Reagan and Mrs. Reagan, and members of their family; Vice President and Mrs. Bush; former Presidents Carter and Ford and their spouses; and former First Lady Mrs. Johnson. These protectees traveled to 3,085 domestic and 132 foreign cities during fiscal year 1988.

Numerous trips are already planned for newly elected President Bush and Vice President Quayle during fiscal year 1989.

Dignitary Protection

With respect to dignitary protection, a multitude of significant events occurred in fiscal year 1988, prompting an unusually large number of substantial foreign dignitary visits for an election year. These visits averaged 5.8 days each.

General Secretary Gorbachev and other Soviet officials received our protection during the Summit Meeting in December, 1987.

With a new President and Vice President, we expect foreign dignitary visit activity to increase substantially during fiscal years 1989 and 1990.

Property Protection

Fiscal year 1988 was also a busy one for us in the area of property protection, beginning with the transition for the Western Protective Division. Initial preparations were begun for the former President's ranch to become a secondary protective site. Also, major security preparations were taken at the former President's new Bel Air residence.

The Service continues to upgrade and enhance security systems at the White House Complex and the Naval Observatory. Substantial improvements in facility safeguards at these sites are planned in fiscal years 1989 and 1990.

PROTECTIVE RESEARCH

Technical Security

Security enhancements to personally owned properties of President Bush and Vice President Quayle will continue to evolve during fiscal year 1989.

Information Resources

We improved the security of our communications during fiscal year 1988 with Voice Privacy radio systems utilized in support of the Democratic and Republican Conventions, Presidential debates, and General Secretary Gorbachev's visit to New York City. Over half of our remote sites were brought on-line with the Nationwide Communications Network.

A new temporary data processing center became operational, and construction began on a permanent facility which will backup our Headquarters center. This fiscal year and next, the Nationwide Communications Network will be fully implemented and expanded to provide support to overseas field offices and temporary protective trips.

Intelligence Data

During fiscal year 1988, the Service continued to expand its analytical capabilities in regard to terrorist activity. This fiscal year and next, we plan to continue development of a computerized data base to analyze terrorist threat information.

INVESTIGATIVE ACTIVITY

In addition to our protective activity, the Service has expanded investigative jurisdictions. In fiscal year 1988, Resident Agencies were established in Bonn, West Germany; Bangkok, Thailand; Bakersfield, California; and Saginaw, Michigan to keep pace with burgeoning investigations.

There were 297,135 case receipts and pending investigations last fiscal year in the areas of debit and credit card fraud, electronic fund transfer fraud, computer fraud, food coupon fraud, counterfeiting, and check and bond forgery. An estimate of cases to be received in fiscal year 1989 exceeds our fiscal year 1988 figure by 11 percent. Increasingly, our agents are becoming involved in more complex investigations involving higher dollar figures, computer technology, and not surprisingly, drug overtones.

Fraud Jurisdiction

In fiscal year 1988, we were able to suppress $112 million in access device and computer fraud. This represents an increase of nine percent over fiscal year 1987. The increase was accomplished despite the fact that the Campaign sharply impacted on the number of staff-hours we were able to dedicate to fraud investigations.

The combined actual and potential fraud we observed in fraud-related cases in which we made arrests during Fiscal Year 1988 amounted to $181 million, an increase of eleven percent over fiscal year 1987.

The Service has made every effort to streamline the number of staff-hours devoted to fraud investigations. We accept only investigations worthy of Federal intervention.

The number of computer related fraud cases the Service is investigating has steadily increased. To meet this challenge, in fiscal year 1988, the Service established a Computer Diagnostic Center to review and evaluate computer crime evidence gathered from our investigations. Last fiscal year, the Service continued to expand fraud investigations in the airline and telecommunications industries. In fiscal years 1989 and 1990, the Service will continue to assist the various industries victimized by fraud schemes within our criminal jurisdictions.

Counterfeiting

In fiscal year 1988 domestic note-passing activity increased by 23 percent. Of the known $121.6 million in counterfeit notes and coins produced in fiscal year 1988, $110.1 million was confiscated before it could be passed on the public. This represented a 76 percent increase over 1987 and the highest seizure total in our history.

Federal Reserve Banks and commercial banks are required by statute to forward all counterfeit currency to the Secret Service, which is subsequently counted by our Field Offices. In fiscal year 1988, our Field Offices counted a total of $11.5 million in counterfeit notes that were passed on the public. We believe the overseas offices established last fiscal year are a cost-effective deterrent to the foreign counterfeiting of U.S. currency. Since 1986, there has been a 20 percent decrease in the percentage of notes passed domestically that were printed overseas.

Forgery

The financial impact of closed forgery cases in Fiscal Year 1988 was $47 million. Forged U.S. checks received for investigation totaled 100,000. Cases involving a total of 90,000 forged checks were closed resulting in 2,670 arrests. Bond forgery case units increased from 4,261 in fiscal year 1987 to 5,000 in fiscal year 1988. The number of closed cases was 5,000, resulting in 30 arrests.

Other Investigative Activity

As mentioned earlier, we are increasingly seeing ties between our traditional jurisdictions and drugs. To deal with this new phenomenon, a Financial Crime and Drug Money Laundering Unit will be established within the Secret Service in fiscal year 1989. Its primary purpose will be to actively pursue cases that come to our attention which involve drugs. This unit will also develop a strategy and process to assist State and local agencies in efforts to suppress drug profiteering.

TRAINING

During fiscal year 1988, our Office of Training initiated plans for an Ethics Awareness Program and a revised Management Development Program. Sensitivity training was implemented, and a pilot course was presented to selected personnel in order to assess its effectiveness. A working group was established to address AIDS in the workplace from a law enforcement perspective. These programs will be expanded this fiscal year and in fiscal year 1990. Also, drug awareness training will be introduced.

Development of the James J. Rowley Training Center with eventual completion of the revised Master Plan remains a priority for the Secret Service. The Security and Computer Building, Protective Driver Training Course, simulated Airport Apron, and Water Tower are scheduled for completion this Spring. Construction of the Tactical Response Training area and Observation Tower will commence this Summer with completion expected in the Spring of 1991. In January 1989, final plans were completed for the Perimeter Road Network and Physical Training Building. Construction is scheduled to begin this Summer with completion in the Fall of 1990 and the Summer of 1991. Funds made available by Congress in fiscal year 1989 will be used for the remaining phases of development.

EQUAL EMPLOYMENT OPPORTUNITY

Although much success has been achieved in the area of equal employment opportunity, our efforts must continue to increase female and minority employment in our Special Agent and Uniformed Division Officer ranks. Uniformed Division recruitment teams visited 26 cities last fiscal year to administer employment examinations. Minorities and females represented 41.6 percent of Uniformed Division applicants, and they constituted 41.9 percent of Special Agent applicants. Minority and female hires composed 24.8 percent of Uniformed Division hires and 30.6 percent of Special Agent hires.

The Service is proud of the significant progress that has been made in the area of minority and female hiring, and we intend to continue these efforts.

SUMMARY

Mr. Chairman, fiscal year 1988 was a fulfilling and challenging year for the Secret Service. Demanding protective responsibilities resulted from the Campaign, heavy permanent protectee travel, and significant foreign dignitary visits. Major technical security enhancements to our protectees' properties were made, advanced information systems technology was effected, and new Resident Agencies were established to deal with the escalating financial impact of our investigative jurisdictions. Although we faced enormous requirements during a campaign year, we continued to provide a consistent and high caliber of training to meet the multitude of challenges that faced us.

Fiscal year 1988 was one of accomplishment and success due to the diligent efforts of our employees. Their creativity and progressive professionalism will surely reflect praise and credit on this organization in the future. Due to the effort and expert performance by our personnel, as well as security personnel from other Federal law enforcement agencies, and State and local governments, fiscal year 1988 was an overall success for the Secret Service in accomplishing its protective and investigative mandates.

I would also like to say that I am always appreciative of this Committee's understanding and support of the Secret Service. Mr. Chairman, this concludes my state-

ment. I will be pleased to answer any questions you or the other members of the Committee may have.

BIOGRAPHICAL SKETCH

GARRY M. JENKINS

Garry M. Jenkins was appointed Assistant Director of the Office of Investigations on July 3, 1988. Prior to this, he held the position of Special Agent in Charge of the Los Angeles Field Office.

Mr. Jenkins was born on October 9, 1936, in Salt Lake City, Utah. He attended the University of Utah where he earned a bachelor's degree in psychology in 1965.

Mr. Jenkins was appointed a special agent at the Los Angeles Field Office in 1965. Since his appointment, he has held supervisory assignments involving both our protective and investigative responsibilities.

Mr. Jenkins was promoted to Assistant to the Special Agent in Charge of the Presidential Protective Division in 1972. One year later, he was appointed Assistant Special Agent in Charge of the Dignitary Protective Division. Other supervisory field office assignments have included duty in the New York and Columbus Field Offices. In 1982, Mr. Jenkins served as an Inspector in the Office of Inspection, Washington, D.C. Three years later, he was promoted to Special Agent in Charge of the Los Angeles Field Office—where he remained until his current assignment.

Mr. Jenkins is a participating member of the International Association of Chiefs of Police and the International Association of Credit Card Investigators.

MINORITY RECRUITMENT

Senator DECONCINI. We appreciate your efforts. Is that considered a difficult problem, finding qualified minorities?

Mr. SIMPSON. Yes, sir.

Senator DECONCINI. Is it more difficult for any particular minority, for example, blacks, women, Hispanics, or any one particular group?

Mr. SIMPSON. It is difficult across the board, Mr. Chairman. It equates to economics. We cannot pay them as much as the private sector. We cannot even pay prospective employees as much as some of the municipalities, State and local governments.

Senator DECONCINI. Well now, you pay more than police forces, do you not?

Mr. SIMPSON. No, sir, not in many instances——

Senator DECONCINI. You do not?

Mr. SIMPSON. We——

Senator DECONCINI. At the entry level, your pay for a woman officer coming in or a black officer is less than in Baltimore or Washington, DC?

Mr. SIMPSON. It depends upon the locale. I cannot speak about Baltimore City. In Washington, the starting salary for an incoming Washington patrolman is more than an incoming Special Agent in the Secret Service.

Senator DECONCINI. Is that right?

Mr. SIMPSON. And in California we just recently had two very good minority applicants that we felt would pass all of the various tests. We offered them a job in Los Angeles, but the Los Angeles Police Department came along right behind us and offered them the same job at almost twice the salary. And they said, thank you very much to us but no thank you, and they went with the Los Angeles Police Department.

Senator DECONCINI. What kind of salary are you talking about?

Mr. SIMPSON. I am talking in terms of $18,000 to an incoming Special Agent. As I recall, I think the Los Angeles Police Department is starting their incoming patrol officers in the vicinity of $33,000.

Senator DECONCINI. Are you restricted? Is that as much as you could offer?

Mr. SIMPSON. Yes, sir; we can offer up to $18,500.

Senator DECONCINI. That is the maximum you can start them at?

Mr. SIMPSON. Yes, sir; and I know that the other agencies are having the same problem. I know you have addressed it.

Senator DECONCINI. Yes; we have a study going on.

Mr. SIMPSON. I don't want to push the panic button, but I think time is of the essence.

Senator DECONCINI. I wanted to talk a little bit about your personnel problems. You say it has become a panic, and I know it is a problem. What has made it a panic all of a sudden?

Mr. SIMPSON. In the next 3 to 5 years we are looking at a situation where a very large portion of our employee population will be eligible to retire. Unless we can be competitive and begin to backfill positions now with the proper type of personnel, I think we are going to be on the losing end of a proposition. We will end up recruiting the best of those that nobody else wants. And I do not think, sir, that you, any Member of the Congress, the President, or anybody else would want that to happen.

UNIFORMED DIVISION PAY

Senator DECONCINI. We did increase, did we not——

Mr. SIMPSON. The Uniformed Division——

Senator DECONCINI. The Uniformed Division.

Mr. SIMPSON. And we are now beginning to be competitive in that area. But we are falling behind in the other areas. And even within the officer ranks, we must have a situation that is flexible in order to compete with the other agencies.

Senator DECONCINI. So you need flexibility. Give me some examples besides pay and the high cost of living in certain areas; I understand that issue, I think.

Mr. SIMPSON. We submitted, or will submit to the Congress, a four-part pay proposal or pay enhancement request for the Uniformed Division which we feel will make us extremely competitive with all of the agencies; not only in Washington but throughout the country. And we recruit from all over the country. The only way we can make sure that our ranks are filled is by doing that.

Last fiscal year we visited 26 cities throughout the United States, including Puerto Rico. However, our recruiting problems stem from the fact that young minorities coming out of college are recruited heavily by IBM, Xerox, and all of the private-sector organizations. It is extremely difficult to compete against them for good minority personnel, as well as personnel in general.

All I am suggesting is that we be competitive, not necessarily with Xerox and IBM, but with State and local governments.

Senator DECONCINI. Do you do any oncampus early recruitment?

Mr. SIMPSON. Yes, sir.

Senator DECONCINI. Before graduation?

Mr. SIMPSON. Yes; we have been to many of the campuses. We have tried very, very hard to recruit minorities in the last year and a half to make sure that our ranks represent society in general. The Secret Service has to be reflective of our society.

Senator DECONCINI. I understand what you are telling me, that if you are a minority and you are a college graduate, you are going to have opportunities that are maybe even better than for a nonminority.

Mr. SIMPSON. That is true, sir. Yes; I believe it is.

Senator DECONCINI. Based on what your experience has been and the fact that you have tried to recruit minorities.

Mr. SIMPSON. I believe that that is the case, sir.

FISCAL YEAR 1990 APPROPRIATION REQUEST

Senator DECONCINI. Mr. Simpson, your 1990 budget totals $368.4 million, and 4,436 FTE's. This reflects, as you pointed out, a $10.9 million increase and 138 FTE's over fiscal year 1989. The 1990 budget proposes a net increase of $18.4 million for investigations, protection, and Uniformed Division activities, and a net decrease of $400,000 in other security programs and a net decrease of $7.126 million in your Candidate Protection Programs. We notice that, historically, just after coming off the election is the one time your budget requests are down, but this year seems to be an exception.

What is the main reason for the increase? Maybe you went over that, but I missed it.

Mr. SIMPSON. Well sir, we are coming off the Presidential campaign year. The nonrecurring amount of that was $7.1 million and represents the remainder of the campaign funds that were appropriated for completion of campaign activities during fiscal year 1989, that is, the rest of the campaign from October 1 through the election and subsequent inauguration. The majority of campaign funding was for fiscal year 1988 and was previously reduced from our 1989 budget base in the amount of $22.8 million. Incidently, we returned over $4 million of the funding for fiscal year 1988, which through the agreements of this subcommittee and, I believe, the House subcommittee, was given back to the Treasury to disburse to some of the agencies that were in short supply of money.

I have to compliment this gentleman on my right, Mr. Lee, and to my extreme right, Mr. Caputo, for the way that they ran the campaign and the ingenuity that they used in ensuring that the taxpayers' money was well spent.

The $7.1 million in fiscal year 1989 nonrecurring costs alone, however, are insufficient to offset the inflationary increase required in fiscal year 1990.

Senator DECONCINI. So most of this increase is due to inflation?

Mr. SIMPSON. About $11.1 million of it is.

Senator DECONCINI. Of the $18.6 million?

Mr. SIMPSON. Of the total $29.7 million increase above our base budget of $338.7 million.

In addition to that inflationary increase, the Service is also requesting increases due to major program initiatives which will provide for the safety of our protectees.

Mr. Chairman, if I may take literary license, in order to stay ahead of the bad guys, you must have some flexibility in the budget. I mean, if we are not able to implement some of the initiatives that we feel are necessary for protectees and for their secure environment, we are going to fall behind the power curve. And if something happens; everyone is going to ask why.

PROPERTY PROTECTION

Senator DECONCINI. I noticed that you had 141 FTE's proposed for the Uniformed Division to provide for expanded protection of the White House, the Treasury complex, the Vice President's residence, the Van Ness Center, the Rowley Training Center, and the 10th floor of your headquarters. Do you see a threat here for which you are not covered or protected?

Mr. SIMPSON. Mr. Chairman, I am going to be rhetorical and say that if I came before this committee and I did not request what the Service needs, I do not think that you would have any confidence in the Secret Service.

Senator DECONCINI. I am not questioning that, Mr. Simpson, I have confidence in you. I am questioning that if the Vice President's residence did not need it last year or the last 8 years, what has made it necessary now to increase security? Is it the fact that maybe this President has a couple of small children there? Or is there a threat that was not there a couple of years ago? I am not questioning your capability to make the recommendations that you want, but it is also our job to make a judgment on those requests.

Mr. SIMPSON. I understand that, sir.

Senator DECONCINI. What made you decide to improve security for fiscal year 1990 when you didn't request those funds in fiscal year 1989? Is there some justification? I would like to have it.

Mr. SIMPSON. We have been working at the Vice President's residence for 17 years. It is the temporary official residence of the Vice President. And I believe that we, the Navy, and everyone else who is involved has finally come to the realization that we are there to stay for a while. Unfortunately, we have not been able to do some of the things that we have tried to do over the years because of some bureaucratic obstacles. We have now reached the point where I think the Navy and we agree that it is time to get on with it.

Senator DECONCINI. What are we talking about, some physical changes there?

Mr. SIMPSON. Yes, sir.

Senator DECONCINI. You are going to put them in, as well as people?

Mr. SIMPSON. Yes, sir.

Senator DECONCINI. Are we talking about a wall?

Mr. SIMPSON. No; we are talking about—well, we are talking about a fence, and we are talking about some bollards like those on Pennsylvania Avenue that would stop an automobile if it——

Senator DECONCINI. There is a fence there now.

Mr. SIMPSON. There is a fence but it needs some enhancements.

We do continual reviews of the security at all properties that we are mandated to protect. Sometimes we feel as though we have to review, reassess, and then add to. Sometimes we can subtract from.

It depends a great deal on what building is taking place and what the environment is.

Senator DECONCINI. So, some of this increase is not just for FTE's, it is also for capital improvements?

Mr. SIMPSON. Yes, sir.

Senator DECONCINI. I would like to see that breakdown, if you can give it to us.

Mr. SIMPSON. Yes, sir, absolutely.

Senator DECONCINI. Of these different five or six areas, maybe you can tell us how much is capital and how much is people.

Mr. SIMPSON. Yes; we can provide that for the record.

Senator DECONCINI. Without objection, that will be placed in the record.

[The information follows:]

PERMANENT PROTECTION

The breakdown for our program increases includes funds in the amount of $5,533,000 for the additional 141 FTE positions, funds in the amount of $4,190,000 for capital improvements and funds in the amount of $8,865,000 for other non-personnel increases.

Of the additional 141 FTE positions, 91 would be newly authorized positions and 50 represent previously authorized positions which have been unfilled. Because of position vacancies, our FTE ceiling was lowered in FY 1989 by 170 FTE positions. This request raises that lowered ceiling by 50 and provides funding for them.

The additional positions to enhance our protection program include 51 Uniformed Division Officers, five Special Officers and 28 clerical positions. The 28 clerical positions are requested in order to allow 28 Uniformed Division Officers currently performing these tasks to return to law enforcement functions. These positions are required for the White House Security Upgrade, the Uniformed Division Posting at the Vice President's Residence, the Van Ness Center, the Emergency Response Team—White House Branch, and to provide security at 1800 G Street.

The additional positions required for our support program includes seven positions to enhance our communications and Technical Security Countermeasures Program.

The request of $5,533,000 includes funding for salary and benefit related expenses along with additional non-personnel related expenses required for new employees.

The capital improvement funds requested include $2,100,000 to maintain an adequate security level at the Vice President's residence at the Naval Observatory and $2,090,000 for enhancements to our Technical Security, Technical Security Countermeasures, ADP and Communications Programs.

The other non-personnel program enhancements include funds for two major projects for fiscal year 1990. Funds in the amount of $1,249,000 are included for the costs necessary for the move of the Uniformed Division Foreign Missions Branch to the Van Ness Center. The remaining $7,616,000 is required to continue our efforts toward consolidation of our headquarter's facilities.

VOICE PRIVACY

Senator DECONCINI. What is the present status of your upgrades on the voice privacy system, Mr. Simpson? How far along are you?

Mr. SIMPSON. We are fairly well along, Mr. Chairman. We are implementing it on an incremental basis, since it is a very expensive endeavor. We are using what is called a Saber radio, which is a voice privacy type of radio.

Senator DECONCINI. When did it start, the voice privacy system?

Mr. SIMPSON. We started at the conventions, just prior to——

Senator DECONCINI. Just last year?

Mr. SIMPSON. Yes, sir.

Senator DECONCINI. And when will you complete it?

Mr. SIMPSON. Well, depending upon the budget, we hope to complete it within the next 6 to 10 years.

Senator DECONCINI. It takes that long to——

Mr. SIMPSON. It is very expensive.

Senator DECONCINI [continuing]. To have it completely implemented?

Mr. SIMPSON. Well, if we had the money, we could fully implement it sooner. Obviously, we are trying as best we can to accommodate the budget. We realize that there is not much money available for everyone, so we are trying to ensure that we utilize resources efficiently. And we feel as though we can do it and——

Senator DECONCINI. Some of it is being replaced on an attrition basis?

Mr. SIMPSON. Yes.

Senator DECONCINI. When the equipment wears out?

Mr. SIMPSON. Yes.

Senator DECONCINI. Is that satisfactory for the protection of your——

Mr. SIMPSON. Well, I am like some of our children; I want it right now if I can have it. I know better, but if we could have it now, fine. If we cannot, we will do the very best we can over the next 6 to 10 years.

CONSOLIDATED BUILDING

Senator DECONCINI. What is the status of your acquisition of the 10th floor?

Mr. SIMPSON. We have just signed a contract with GSA and with the people who own the building. That acquisition relates to our efforts to achieve a consolidated headquarters where all of our units will be located.

Senator DECONCINI. You will be there——

Mr. SIMPSON. Yes, sir.

Senator DECONCINI [continuing]. You will consolidate there?

Mr. SIMPSON. Hopefully.

Senator DECONCINI. How long is the lease that you have there?

Mr. SIMPSON. I do not know.

Mr. LEE. The current lease runs through 1995, and the lease on the 10th floor is for 2 years. GSA is now looking at doing a superseding lease to cover the whole period——

Senator DECONCINI. To 1995?

Mr. LEE. It will actually run beyond that, 20 years.

Senator DECONCINI. Optioned for 20 years?

Senator MIKULSKI. Mr. Chairman, I just missed part of the answer.

Are you going to be at the G Street location for some time?

Mr. SIMPSON. Yes, ma'am; we hope so. That is where we are intending to make our consolidated headquarters unless something unforeseen happens.

Senator MIKULSKI. But is that adequate for you?

Mr. SIMPSON. At the present time it is, Senator, yes. Yes; to answer your question, we feel it is very adequate. Obviously, if something better became available we would be interested in it; but it has to be within that general location.

Senator MIKULSKI. We understand that. As you know, I am very interested in Federal——

Mr. SIMPSON. Yes, ma'am.

Senator MIKULSKI. I am not interested in moving all of you.

Senator DECONCINI. Not this year.

Senator MIKULSKI. The fact is that I am sure you need to modernize that space, Director, the computers, the terminals. So that is why I think whatever we are talking about needs to be adequate for a long time, the arrangement, to handle your people and the infrastructure that backs your people up.

Mr. SIMPSON. We had Peck & Peck do a study, Senator. We feel it will be very adequate for us in the future. As we take over the various floors in the building, we are trying to modernize the space just exactly the way you describe it. We are making sure that we have the proper type of conduits installed for the computers and everything else.

Senator MIKULSKI. The desks now that hold computers are different than the desks that used to hold a stylus.

Mr. SIMPSON. According to the study, Senator Mikulski, we will be OK.

Senator MIKULSKI. OK.

Senator DECONCINI. How many floors do you occupy in the building.

Mr. SIMPSON. We occupy the basement level, as they call it.

Senator DECONCINI. The parking level?

Mr. SIMPSON. No.

Senator DECONCINI. The lower level?

Mr. SIMPSON. The lower level.

Senator MIKULSKI. If I know your people, they have a name.

Mr. SIMPSON. Yes.

We have the lower level, Senator, the 7th, 8th, and 9th floors, and now the 10th floor.

Senator DECONCINI. And the long-term strategy is to occupy the whole building?

Mr. SIMPSON. The additional office space we need to consolidate our headquarters operations at one location.

Senator DECONCINI. The National Science Foundation is looking for another location?

Mr. SIMPSON. We share the building with the National Science Foundation.

FTE POSITIONS

Senator DECONCINI. What is your explanation, Mr. Simpson, for the additional FTE's for Presidential protection activities?

Mr. SIMPSON. We had the 50 initially, they were authorized. OMB came up with a formula in which if you did not have the money to fund the positions, then they cut out I think it was 170 positions; we got 50 of them back.

Senator DECONCINI. These are getting back——

Mr. SIMPSON. Yes, sir.

Senator DECONCINI [continuing]. As part of the 170?

Mr. SIMPSON. Yes; and we intend to try to get all 170 FTE's back over the next year or two.

Senator DECONCINI. Do you need those now?

Mr. SIMPSON. Yes, sir.

Senator DECONCINI. So, as a result, are you calling on people to work longer shifts?

Mr. SIMPSON. Yes; we are.

Senator DECONCINI. I have no further questions at this time, Mr. Simpson.

I will submit a few questions to you. Without objection, they will be included in the record.

Does the Senator from Maryland have any questions?

ROWLEY TRAINING CENTER

Senator MIKULSKI. Thank you very much, Mr. Chairman. Mr. Chairman, I had the opportunity to visit the Secret Service training school in my own State of Maryland. I took my entire staff out.

Senator DECONCINI. That is a great experience.

Senator MIKULSKI. It was a great experience. I want to thank Mr. Simpson, the Director, and all the people who helped make the visit so informative.

My staff learned a lot about what goes into the training of Secret Service agents and what we ask of Secret Service agents.

PAY AND RETENTION ISSUES

Then, Mr. Chairman, when I told my people that range from receptionist all the way to my legislative director and senior team what the pay was for the men and women who protect the President and other dignitaries and all of the responsibilities they have, my staff, who works for me, knows better than anybody about pay, was stunned at the starting salary for an agent and what an agent makes after 5 years of duty, and so on. I say that because I think that the American people, if they knew what the Secret Service earned, would want to give you a raise on the spot.

I say it, Mr. Chairman, because this thing goes to my question, Mr. Simpson, we are talking about office space and computers, all the infrastructure and everything. Those are tools to the men and women. And it is very hard to talk even about affirmative action and women and where are we with civil service generally.

I see in your testimony you are advocating a National Commission on Law Enforcement.

Mr. SIMPSON. Yes.

Senator MIKULSKI. My question to you is, how do you think we can get and what we need to retain, first of all I think our most important job is to retain the agents we have. They are up for retirement in 1992. We do not want them to become rent-a-cops around America. How can we retain them? And then how can we recruit people? And what tools would you need to what I call recycle people? Meaning those who are at one level who could move into other levels, because they have got the experience, they love the Agency, and so on.

I share a reluctance for national commissions because I do not want to contract out my responsibility, but if you think that is the way to go, I would be interested in hearing your views.

Mr. SIMPSON. The National Commission came by virtue of the Anti-Drug Abuse Act, that was initiated by Senator DeConcini. It is composed of representatives from both the legislative and executive branches of Government. I believe the initial meeting was held on February 22.

What we would be advocating is——

Senator MIKULSKI. Are you saying the National Commission exists?

Mr. SIMPSON. Yes, ma'am.

Senator MIKULSKI. We did so much in that drug bill.

Senator DECONCINI. We tried to pass the increase in the salaries, if the Senator would yield, and quite frankly could not get it included, so we——

Senator MIKULSKI. I remember, yes, sir.

Senator DECONCINI [continuing]. Had this Commission created to do the groundwork to, hopefully, build a case that is overwhelming.

SOLUTIONS TO RETENTION PROBLEMS

Mr. SIMPSON. Ms. Horner of OPM, has been very supportive. We have met on several occasions, all the directors and administrators of all the law enforcement agencies. When the chairman initiated the National Commission, the respective meetings ceased and desisted.

What I would like to see happen, Senator, would be first, that the Service receive authority to give COLA's in those high cost of living areas. We would then be able to entice young people to come to work for the Secret Service. And I am sure that Director Higgins would like to see the same thing. If we could offer these potential employees a competitive salary, so that we could compete not only against the private sector—and I do not expect that we will ever be able to completely compete against them, nor should we, very candidly—but also against State and local governments. We cannot, at the present time, with the current starting salary. If we could allow COLA's, and second, have something like the FBI pilot project, where they can move people to a high-cost area like New York City, and give each individual $20,000 in moving enhancements. The FBI also can give a 20- to 25-percent increase in salaries, with the stipulation that employees sign a document stating that they would remain there for a certain number of years.

We would also like to see the flexibility that would give an agency head the tools to compete with, so to speak. I know I cannot have a tool that would be competitive against my friend Steve Higgins, but I suggest something that we could all use to compete against the other agencies in order to attract those good people who are out there.

If we could have some of these incentives, I think a lot of people would come to work for the Secret Service, the BATF and the other agencies because they want to work in these agencies. But wanting to and being able to live, are sometimes mutually exclusive.

Senator MIKULSKI. Wanting to does not pay tuition.

Mr. SIMPSON. That is right.

Senator MIKULSKI. And it does not pay the mortgage.

Mr. SIMPSON. That is right, Senator, exactly.

Senator MIKULSKI. And your agents and all the people are in very high stress occupations.

Mr. SIMPSON. Yes, we are.

Senator MIKULSKI. And high risk.

Well, I would like to discuss this more, Mr. Chairman, in terms of the personnel issues. When is the National Commission going to make its report?

Senator DECONCINI. I think it is in June, we have our meeting, I think, next month, in April, our first meeting of the Commission. I think we are scheduled to complete the work by June.

It is more like September, I am advised. But we will do it this year.

Senator MIKULSKI. We could be moving, following their recommendations. As you know, the administration has not moved on the OPM nomination with the pace we would hope.

Senator DECONCINI. Right.

Senator MIKULSKI. Ms. Newman seems to have an interest in these areas, I mean a keen interest in equity.

Mr. SIMPSON. I have not had the pleasure of meeting Ms. Newman.

Senator MIKULSKI. We have not either. That makes five of us.

But perhaps we could begin to look at some of these things now and at least have parity with other Federal enforcement. We know what the FBI does, but we do not think that they are different in terms of their personnel needs than BATF or Secret Service.

FOREIGN LANGUAGE BONUS

Mr. SIMPSON. We agree. Included in the Anti-Drug Abuse Act was a provision for second language capability allowing the FBI to pay an agent with second language capability 20 percent more. We just came back from a trip to the Far East where some of our people spoke Chinese, Japanese, and other languages. They were desperately needed to translate and to communicate with citizens of those countries. Had we not had those employees, we would have been in desperate shape.

Senator MIKULSKI. So we are not just talking about Spanish or something that you could learn at Loyola College or the University of Maryland. You are talking about pretty sophisticated——

Mr. SIMPSON. We are talking about the whole range of languages, Senator. If a person is capable of speaking a second language, then he or she ought to be compensated for that particular expertise.

Senator MIKULSKI. Are you saying the FBI does that and you do not?

Mr. SIMPSON. It was in the Anti-Drug Abuse Act that the Senator introduced, and I believe it is in effect.

Senator MIKULSKI. Well——

PAY EQUITY

Mr. SIMPSON. And I guess I have to say, Senator, that I do not mean to speak badly of my friends in the Bureau or DEA. They certainly deserve what they received, but I would like to submit to you that Treasury is not a second-class agency. We are a first-class organization. We have first-class law enforcement people. We

would just like to be considered in the same light as the other law enforcement agencies.

Senator MIKULSKI. You got it.

Thank you, Mr. Chairman. I think it is something we want to talk about.

Senator DECONCINI. I do, too.

Senator MIKULSKI. I am going to continue in this——

Senator DECONCINI. One of the problems—if the Senator would yield, on the Commission, I am told that we are still short one Democrat to serve on the Commission. I am on it. I have been trying to get someone from the Governmental Affairs Committee, because that committee has jurisdiction over this issue. So, maybe we can find a Democrat on Governmental Affairs. A member does not have to be on that committee, but I believe it would be helpful.

Senator MIKULSKI. Let's put on our thinking cap.

Senator DECONCINI. Yes.

Can OPM give you any relief on these entry level——

Mr. SIMPSON. I think the rules state that there are only a certain number of pilot projects that OPM can authorize at any one time. I do not know how many they have, Mr. Chairman, at this point in time. I would be remiss if I told you that I did know what the rules and regulations were.

Senator DECONCINI. I do not know either. I expect that somebody on your staff has looked at it. But it seems to me that if there is some relief OPM could grant, and it is a dire emergency or as you say, a crisis, then you might be in a position to get some relief.

Mr. SIMPSON. I cannot say it is right this minute. However, we are talking about our concerns; and we are looking into the future.

Senator DECONCINI. Yes.

Mr. SIMPSON. And we are trying to plan for it right now. But we have got to be competitive as of this moment. We must be. That is the only way——

EMPLOYEE RETENTION

Senator DECONCINI. Yes; but if you are losing people for probably twice what you are offering your uniformed people——

Mr. SIMPSON. We just had a man who submitted his resignation, I believe, at the end of February. And he went to—and I am sure Senator D'Amato could back me up on this—Suffolk County. He started there at $55,000 a year.

Senator DECONCINI. How long had he been with you?

Mr. SIMPSON. About 3 years.

Senator DECONCINI. About 3 years. And what was he making——

Senator D'AMATO. We train them for other people.

Mr. SIMPSON. Yes, sir.

Senator D'AMATO. That is what is happening.

Mr. SIMPSON. Yes, sir.

Senator MIKULSKI. You are the farm team now. Is that right?

Mr. SIMPSON. That is about it.

Senator DECONCINI. Do you have a lot of people doing that?

Mr. SIMPSON. We are beginning to.

Senator DECONCINI. It is beginning. You are seeing that increasing?

Mr. SIMPSON. We used to have an attrition rate of less than 3 percent, and most of that was retirement. Now we are beginning to see people who are leaving with less than 5 years, because they can make twice as much money elsewhere. As Senator Mikulski said, if you have a couple of kids that are going to college you are in big trouble.

Senator DECONCINI. Sure.

Mr. SIMPSON. You can only refinance your house once.

Senator DECONCINI. As you know, we tried to pass a bill that increased salaries substantially, all across the board. I do not have the figures here. Senator D'Amato was on our original bill, and then we ended up with this Commission. So, I hope our Commission can have some impact on law enforcement salaries.

The Senator from New York.

Senator D'AMATO. Mr. Chairman, I join in your concern and that expressed by Senator Mikulski. Anything we can do to help in this area, it is particularly devastating in the metropolitan areas to the Service, how they can attract or keep people is beyond me. And to try to bring in new people, have them move into the region, forget about it. It is impossible.

It used to be that you could go over and get a house over in New Jersey. That is what a lot of your people did.

Mr. SIMPSON. Yes, sir.

Senator D'AMATO. They could take a 25-, 35-, or 40-minute ride over the bridge and come into the city. But even the housing costs in New Jersey make that impossible. Some of your people are commuting for 2 or 2½ hours.

Mr. SIMPSON. That is correct.

Senator D'AMATO. That is a pretty tough order. So, we have got to do something, notwithstanding the budgetary crunch.

SUPPORT PERSONNEL

Then the other thing is the clerical side.

Mr. SIMPSON. I am talking across the board here, sir, I am not talking about just the——

Senator D'AMATO. The clerical side is an incredible thing because what you have is, again, now you have run people through security. It is terrific. What a background check they give. They get a great background check. You break them in on the computers or whatever, they learn. And 18 months or 2 years later, a bank comes in or another financial institution and doubles the pay.

Mr. SIMPSON. Yes.

Senator D'AMATO. So that is a problem, and the support staff as well. We have got to recognize that. Maybe we should have some hearing on a broader scale to try and address it.

I will submit the rest of my statement, Mr. Chairman, for the record.

Senator DECONCINI. Thank you, Senator D'Amato.

Without objection, that will be inserted into the record.

[The statement follows:]

STATEMENT OF SENATOR D'AMATO

Mr. Chairman, I would like to welcome today the Director of the United States Secret Service as we review the Service's appropriation request for fiscal year 1990. The protective mission, in addition to other diversified activities, is a high priority for the Secret Service. They are to be commended for the outstanding manner in which they provide this service.

In addition to protecting the President and other officials, the Service investigates counterfeiting of currency, check forgeries, access device fraud, and protects the White House and other buildings within Washington, DC. The Service's skill and dedication in its protective mission and its criminal investigations is well-demonstrated.

The Secret Service is requesting 4,436 FTE positions and $368,401,000 in appropriated funds. This represents an increase of $10,901,000 and 138 FTE positions over the FY 1989 level.

I look forward to discussing with the Service its plans to make improvements in its technical security, communications, and ADP programs as well as plans to enhance the security of the Vice President's residence and to relocate personnel to the Van Ness Center.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

The Bureau of Alcohol, Tobacco, and Firearms has been one of the most aggressive, innovative and effective Federal law enforcement agencies. Targeting the violent and repeat criminal offenders as BATF does, and ensuring that they receive long prison terms without parole or probation are models of meaningful law enforcement.

Particularly outstanding are the Bureau's armed career criminal task forces; its "Project Achilles" directed at criminals qualifying for mandatory and enhanced prison sentences for using or carrying a firearm during and in relation to a Federal crime of violence; its participation in the organized crime drug enforcement task forces; and its arson investigations and enforcement program.

Mr. Chairman, your leadership and the support of the other members of this subcommittee have been absolutely essential for the continued strength of BATF. One of our more significant accomplishments in the 1988 Anti-Drug Abuse Act was appropriating an additional $7 million for BATF. We need to continue that progress this year.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

The role of the Federal Law Enforcement Training Center (FLETC) is too little appreciated, and its mission is too little understood. Since the President has not made a final decision on adjustments to this Agency's budget, I very much hope that today's hearing will develop the record we need to explain how essential FLETC is to Federal law enforcement.

We must set forth exactly what FLETC requires to meet the diverse—and expensive—training requirements of the many agencies involved in our anti-drug enforcement efforts. We need to examine whether the Drug Enforcement Administration should make use of FLETC's training facilities, and whether the Federal Aviation Administration should increase its use of FLETC in the area of anti-terrorism training.

Mr. Chairman, in the next few weeks, FLETC will submit its facilities master plan. I look forward to working with you and the members of this subcommittee on this plan, and on building the strongest possible Federal law enforcement training program for the future.

SUBMITTED QUESTIONS

Senator DECONCINI. I have some questions from Senator Domenici.

Without objection, that material will be inserted into the record.

Thank you, Mr. Simpson, very much, for being with us today.

Mr. SIMPSON. Thank you very much, Mr. Chairman.

Senator DECONCINI. It was very helpful.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator DeConcini

FTE Request

Senator Deconcini: An additional 141 FTE positions are proposed for the Secret Service to provide expanded protection of the White House/Treasury Complex, the Vice President's Residence, the Van Ness Center, the Rowley Training Center and the 10th floor of your headquarters on G Street. Other increases in personnel are proposed for communications and security specialists.

Can you give us a breakdown of the additional FTEs you are proposing to assign to each building, and communication and security activity and the justification for each? Also include the costs for each in the breakout compared to FY 1989.

Mr. Simpson: Of the 141 additional FTE positions, 91 would be newly authorized positions and 50 represent previously authorized positions which have been unfilled. Because of position vacancies, our FTE ceiling was lowered in FY 1989 by 170 FTE positions. This request raises that lowered ceiling by 50, and provides funding for them.

Due to security considerations, the Service cannot disclose the number of FTE positions assigned to each building, and communication and security activity. We can, however, provide this information in an executive session.

The cost for each activity in FY 1989 is not captured by this type of detail in our financial reports. If necessary, we will work with your staff to prepare any information to assist you in your review in this area.

The additional 91 FTE positions are reflected as follows:

Protection - The Service is requesting a total of 84 positions for increased requirements for our protection program. This request includes 51 Uniformed Division Officers, 5 Special Officers and 28 clerical positions. The 28 clerical positions are requested in order to allow the return of 28 Uniformed Division Officers currently performing clerical tasks, to return to law enforcement functions.

Support - The Service is requesting seven support positions to enhance our communications and Technical Security Countermeasures Program.

The positions are required for the following programs:

White House Security Upgrade

In June 1987, a White House security survey was conducted by representatives of the Presidential Protective Division and the Uniformed Division. The purpose of this review was to determine if the existing staffing of each post, by shift and day of the week, was adequate. The survey group determined that it was necessary to upgrade the existing post coverage at the White House. With an already overworked and understaffed White House Uniformed Division, the Service implemented additional posting within the White House Complex to elevate what was felt to be dangerously inadequate coverage. This was accomplished through additional overtime.

The following is a list of 28 clerical positions that are currently encumbered by Uniformed Division Officers. The Service plans to fill these positions with civilian employees.

The 28 Officers currently performing these clerical duties will be returned to the White House Branch, to permanently staff the increased coverage provided to the White House Complex in 1987.

Foreign Missions Branch

2 Officers	Clerks Deputy Chiefs Office
1 Officer	Computer Programmer
1 Sergeant	Navy Yard
4 Officers	Scheduling Clerks
3 Officers	Dispatchers

White House Branch

6 Officers	Scheduling Clerks
2 Officers	Treasury Appointment Center
7 Officers	Treasury Control Center
1 Officer	Counter Sniper Team
1 Officer	Forms Clerk

Uniformed Division Posting at the Vice President's Residence

The Uniformed Division will establish three (3) new perimeter protection posts at the Vice President's residence.

Van Ness Center

The Van Ness Center will be occupied predominantly by Middle Eastern Countries. The countries involved are high threat countries that constantly require a high level of protection. With the ever increasing demands placed on the Uniformed Division, the Foreign Missions

Branch staff will not be able with its current staff to fulfill additional requests from embassies at the Van Ness Complex. Upon its completion, the Van Ness Center will have space for 22 foreign missions. By FY 1990, it is expected that the majority of these 22 countries will have locations at the Van Ness Center. Protection for the current and for these future embassies will need to be provided by the Uniformed Division. This represents a new protective responsibility of the Uniformed Division.

Emergency Response Team - White House Branch

The increased acts of terrorism directed toward Americans and an increase in adverse intelligence received by the White House switchboard (32% increase since FY 1985), has raised concern about the protection afforded the First Family and the White House Complex.

In FY 1989, the Service received positions to implement the first stage of an emergency response team. This team is trained to respond to emergency situations (terrorist attack) and to properly handle daily occurrences such as bomb threats, suspicious packages, penetrations and demonstrations within the White House Complex. Additional Officer positions are requested to fully staff this team.

Special Officers - 1800 G Street

With the acquisition of the 10th floor at 1800 G Street, additional Special Officers are required to provide security.

Communications Engineer

The Electronics Branch is currently in the process of upgrading its radio communications trip equipment to the Voice Privacy System. The new equipment is extremely specialized and requires a Communications Engineer to be dedicated solely to the Voice Privacy Program. In addition to alleviating present personnel shortages, a Communications Engineer would help maintain all aspects of the system as well as new system installations in the field.

Communications Specialists

Communications specialists are required to support Voice Privacy operations and meet the increased need to maintain and upgrade field office radio systems. By FY 1990, the Voice Privacy Program will nearly double the size of our equipment base. In addition, our present radio systems require specialized talent due to the nature of their technology. Commercial service centers are inadequately equipped and staffed to maintain the systems properly.

Supervisory Electrical Engineer

A Supervisory Electrical Engineer is required for essential Technical Security Countermeasures (TSCM) programs. Since 1981, in order to fully implement Executive order 12333, several programs have been expanded within the White House Complex. The increase in workload and expanded program responsibilities have correspondingly increased the Branch supervisor's responsibilities. A major TSCM program, GUARDIAN, requires the services of a full time supervisory electrical engineer to provide the expertise needed to help manage and stay abreast of the technical advances in this critical program. The Service is requesting this position in order to alleviate the shortage of qualified supervisory personnel in this critical area.

Security Specialist

Presently, security specialist staffing is at the same level as in 1977 when the only major responsibility was the physical security of the White House Complex. The number of intrusion alarm zones at the White House alone has increased from less than 300 in 1977 to over 800, with the number of cameras and lock systems increasing proportionately as well. In addition, as the complexity of these systems increases, more time must be spent on maintenance and troubleshooting. This problem is compounded not only by the increased workload at the White House Complex but also the added responsibilities of physical security at the Vice President's residence, the Beltsville Training Center, and at our nationwide field offices.

Protection of the Vice President's Residence

Senator Deconcini: Your justification also proposes an increase of $2.1 million for security measures at the Vice President's residence. Can you explain the new security measures and identify how many additional officers will be assigned to the residence.

Mr. Simpson: The following is a list of what we are requesting for the Vice President's residence.

A. Naval Observatory Main Gate $1,500,000

Security at the Vice President's Naval Observatory residence is an integral part of the Secret Service's protective effort for the Vice President and the Vice President's family.

An area of particular concern is the main gate entrance of the Naval Observatory. To acquire an increased level of security, a hydraulic vehicle resistant gate, similar to the type currently in use at the White House, and a vehicle inspection site, to

insure that vehicles entering the area of the Vice President's residence have been properly screened, are required.

Concurrent with the construction of the hydraulic gate, the main gate guard booth will be reconstructed and updated with current protective equipment including an interview room, x-ray area, visitor pass section and magnetometer check point.

We also will be constructing a security fence to surround the Secret Service Security Command Post area and the interior roadways adjacent to the Vice President's residence.

B. Classified Project $500,000

Classified Project - Justification can be supplied in executive session.

C. Entrance to Vice President's Residence $100,000

To enhance security, the Service is proposing to enlarge the north security entrance to the Vice Presidents residence to incorporate an additional post. Current posts will be re-configured.

D. Staffing

The number of additional posts and staffing required can be provided in executive session.

Senator Deconcini: Was a study completed in the Vice President's home showing the need to provide additional security? If so, who completed the study and are the increases proposed for FY 1990 all that is necessary to implement the findings? If not, what additions and enhancements will be necessary over the next few fiscal years.

Mr. Simpson: The Naval Observatory residence of the Vice President was established 17 years ago. It was established as a "temporary residence". Although this Service recognized at the outset that there were significant and obvious security deficiencies with this protective site, we were reluctant to make any large expenditures due to the temporary nature of it. With the passage of time, this site has become the defacto permanent residence.

For a number of years now, the Secret Service has made "piece-meal" security enhancements at this site. Security reviews by the Vice Presidential Protective Division have been numerous over the years. Previous budget submissions from this office have included requests for security improvements there.

We continue to review our security needs at this site as well as at all protective sites. At the Naval Observatory, we have a very critical need for a new command post facility. We expect initial studies to begin on this project this fiscal year with formal budget requests to be submitted in the Fiscal Year 1991 and Fiscal Year 1992 budget submissions.

Senator Deconcini: Have there been any hostile incidents at the Vice President's residence to warrant additional security measures? If so, Please explain. How long have you known about the risks presented to the V.P. and his family because of inadequate security? Why?

Mr. Simpson: As of March 1, 1989 there have been 13 protective intelligence cases established on individuals visiting the Vice President's residence this calendar year. These 13 people made no threats and departed without incident.

There have been 138 subjects since the conclusion of the 1988 Campaign who have expressed an interest in Vice President Quayle. Of these 138 subjects, 76 have made threats against the Vice President.

In the past several years, there have been seven penetrations of the Naval Observatory Grounds. All were resolved without compromising the safety of protectees.

Specific details of penetrations and intelligence information can be provided in an executive secession.

Voice Privacy

Senator Deconcini: Your justification states that the Service is in the process of upgrading its radio communications to the Voice Privacy system. What is the present status of these upgrades? What will the total project cost and when will it be completed?

Mr. Simpson: The Saber III Voice Privacy radio is the Secret Service standard handie-talkie radio. It is compatible with the National Security Agency (NSA) approved Data Encryption Standards and employs cost effective rechargeable batteries.

Our first full scale voice privacy operations were the 1988 National Conventions in Atlanta and New Orleans. Now voice privacy systems are set up in Atlanta, Boston and New Orleans. In Washington, D.C., the Presidential and Vice-Presidential Protection Details and White House Uniformed Division are also operating in the voice privacy mode, and by April 1989 all of the Uniformed Division will be operating in the voice privacy mode.

Beginning in FY 1990, the Secret Service will begin converting other Field Office radio systems to Voice Privacy. We are very carefully planning implementation strategies and options based primarily on funding levels. Funding will be the controlling factor on system completion since nationwide implementation will cost more than $50 million and require six to ten years to complete.

Headquarters Consolidation

Senator Deconcini: What is the status of your acquisition of the 10th floor of the 1800 G Street location? When will the National Science Foundation move from the building? Once you expand on the 10th floor, what other plans do you have to provide sufficient space for your Headquarters requirements?

Mr. Simpson: On August 4, 1988, the Secret Service received Full Committee approval on the Prospectus proposing the acquisition of the 10th floor at 1800 G Street. Subsequently, the 10th floor was brought under lease.

We understand the National Science Foundation (NSF) has prospectus approval and is well into the process of seeking alternate space. At this time, it is difficult to predict an exact time frame concerning the move of NSF.

A comprehensive consolidation "Master Plan" for the Secret Service has been prepared by Peck/Peck and Associates (in conjunction with the General Services Administration). The plan calls for an incremental approach to consolidation. Implementation started with the acquisition of the 10th floor. We are actively working with the General Services Administration in an effort to realize the remainder of the consolidation plan.

Executive Order 12333

Senator Deconcini: The White Sheets in your budget justification mention that in order to implement Executive Order 12333, the Service has expanded programs with the White House complex. What is Executive Order 12333 and what did it require?

Mr. Simpson: Executive Order 12333 requires the Department of Treasury "To conduct, through the United States Secret Service, activities to determine the existence and capability of surveillance equipment being used against the President of the United States, the Executive Office of the President, and, as authorized by the Secretary of the Treasury or the President, other Secret Service protectees and United States officials. No information shall be acquired intentionally through

such activities except to protect against such surveillance, and those activities shall be conducted pursuant to procedures agreed upon by the Secretary of the Treasury and the Attorney General."

Technical Security Program

Senator Deconcini: I notice your justification also calls for a number of increases to support specific security projects. Could you explain the purpose of each project and place them in priority ranking?

Mr. Simpson: Technical Security Programs and the Technical Security Countermeasures Programs are classified programs. Further discussion of these programs and their priority ranking require a classified briefing.

Van Ness Center

Senator Deconcini: Can you tell the committee about the Van Ness Center? How many Service personnel will be occupying this building and for what purpose?

Mr. Simpson: Several years ago, the Department of State began development of the Van Ness Center diplomatic complex for foreign missions and embassies. The completed facility will be occupied by 22 countries, predominantly from the Middle East. A notable number of these occupants represent nations vulnerable to a very high terrorism threat, with a requirement for a high level of protection.

The Department of State has made space available for the Foreign Missions Branch of our Uniformed Division. This will enable us to relocate our Foreign Missions administrative and operational staff to this new facility from 1310 L Street, N.W. as well as Albemarle Street Substation personnel. The specific number of Uniformed Division personnel to occupy this new facility can be provided in an executive secession.

Senator Deconcini: Your budget contains a request of $1.249 million for rental payments to GSA and other services for the Van Ness Center. However, you mention that there will no longer be a need for the Uniformed Division Substation at Albemarle Street. Do you own the Albemarle Substation or is it leased space? Is there a savings projected from the move out of this facility? If so, where is that savings being applied?

Mr. Simpson: The substation is owned by the Government of the District of Columbia. The space was acquired for the Secret Service through GSA and GSA charges the Service rent for the facility.

The savings of rental payments accruing with our moving the current operations from the Albemarle Street facility were subtracted from the gross amount needed to cover the rent and operations at the Van Ness Center.

Fingerprint Technology

Senator Deconcini: You are also requesting $160,000 to upgrade your fingerprint comparison equipment to enable your specialists to compare latent and linked prints via a CRT screen. What kind of information does the Service have about the effectiveness of this system? How does it compare to other fingerprint systems used by other law enforcement and intelligence agencies?

Mr. Simpson: Advancing technology and demand has mandated an upgrade to our current fingerprint comparison equipment. This upgrade will allow us to compare a developed fingerprint against all fingerprints in the computerized database. The effectiveness of the upgrade requires the fingerprint examiner to conduct only an initial inquiry and to make a comparison of the developed latent fingerprint against those suspects identified by the computer as being the most likely matches.

The Service has entered into a memoranda of understanding with law enforcement agencies throughout the United States which already have similar upgraded automated fingerprint identification systems. These automated systems make it possible to compare latent fingerprints developed against appropriate databases without having to have previously identified a suspect. For example, the Northern Virginia Regional Identification System (NOVARIS) is being upgraded to an automated system like the one we are requesting. The requested upgrade will facilitate the exchange of identifiable fingerprints between law enforcement entities, and it will will enable the Service to be compatible with these systems.

FY 1989 FTE Reduction

Senator Deconcini: Please explain the justification for the additional 50 FTEs for the Presidential Protective activities. I understand that these 50 positions are part of an effort to recover the 170 positions that were lost in fiscal year 1989. Did OMB mandate the reduction of 170 FTEs in 1989 and if so, what was their justification?

Do you have long-term plans to recover the remaining FTEs? Please explain.

Mr. Simpson: The reduction of 170 FTEs in FY 1989 represents an effort to bring our FTE ceiling in line

with the number of positions that we have filled. There is no reduction in funding relative to this lower FTE ceiling. The 50 FTE positions are requested for Presidential Protection. The positions include 27 UD Officers and 23 Support Positions, all of which were previously justified and authorized, but which have remained unfilled since FY 1986. The support positions include five Access Control Officers, six Intelligence Research Specialists, four Intelligence Aides and eight Special Officers.

The Service recently has had difficulty in attaining its authorized FTE level. The sequestration of funds under Gramm-Rudman-Hollings in FY 1986, which necessitated a slow down in hiring, as well as the increasing difficulty in attracting the candidates we need to fill our vacancies, contributed to the present situation where we cannot achieve our previously authorized FTE levels.

We have also been critically short in the funding we need in our personnel accounts. In fact, in FY 1988 we were $5.7 million short in our personnel compensation and benefits accounts despite the fact that we were 168 FTEs below our budgeted ceiling.

While preparing our FY 1990 Request, OMB demanded that we reduce the FTE ceiling for FY 1989 to a level more in line with the personnel dollars we have available. Lowering the FY 1989 FTE ceiling by 170 left the Service with a total that is realistic in so far as the number of FTEs that we could expect to achieve and that is also sufficiently high as to not constrain any progress that we may be able to make in filling our vacancies. To fund this level required moving $5.1 million from other areas within our budget to our personnel accounts, as we have done beginning with fiscal year 1988, as well as making reductions amounting to $5.8 million to our personnel accounts. The reductions to our personnel accounts will be made by restricting the use of overtime and lowering the number of employee transfers.

As the Service solves its hiring problems and as we solve the problem of insufficient funding in our personnel accounts, we want to ensure that our FTE ceiling is not a constraint on our ability to meet our mandated responsibilities. As you know, the Service's operation is very labor intensive and we rely very heavily on good people to achieve our goals.

White House Barriers

Senator Deconcini: What is the status of the construction of barriers around the South Grounds of the White House? Has this project been completed and if not, when do you expect completion?

Mr. Simpson: The first design proposal, similar to the barriers along Pennsylvania Avenue, was presented to the Fine Arts Committee but was rejected. Other designs are now being prepared. Once the design has been approved and specifications prepared, we will solicit bids for a competitive contract.

Assuming there are no major delays in obtaining approval from the Fine Arts Committee for the design, a contract will be awarded in FY 1989. We expect the construction project will take about one year to complete.

Rowley Training Center

Senator Deconcini: What is the status of the expansion of the James J. Rowley Training Center? When will the project be completed?

Mr. Simpson: Work is currently underway or contract negotiations taking place on all parts of the construction.

Construction of the Security and Computer Building and new main entrance, Protective Driver Training Course, Water Tower, Storm Water Drainage Pond #2, and Simulated Airport Apron is underway and scheduled for completion this Spring.

Contracts for construction of the Tactical Response Training Area and the Observation Tower will be awarded by GSA in March, with commencement of construction this Summer. Completion of these facilities is scheduled for the Spring of 1991.

Contracts will be awarded this Summer, and construction will begin on the Perimeter Road Network and the Physical Training Building. We expect completion of the Perimeter Road Network in the Fall of 1990 and the Physical Training Building in the Summer of 1991.

Inspector General Transfer

Senator Deconcini: Your budget proposes to transfer FTEs and $156,000 to comply with Inspector General Legislation which established a statutory Inspector General within the Department of the Treasury. How were these amounts arrived at? Do they accurately reflect the activities carried out by the Service which have been dedicated to internal audits?

Mr. Simpson: With the passage of Public Law 100-504, the "Inspector General Act Amendments of 1988" the Secret Service was required to transfer resources to the Treasury Department. The funds being transferred reflect the actual cost being incurred for three

internal auditors on an annual basis. These costs include, Personnel Compensation and Benefits, Travel, Rental of Space, Equipment Rental and necessary Training.

The Service had three full-time positions devoted to the internal audit program. The positions and associated costs, which were transferred, accurately reflect all activities dedicated to the program.

Counterfeiting

Senator Deconcini: Statistics on cases involving counterfeiting appear to be staying about the same. Is there any specific reason for this, and do you expect the number of cases to increase or stay about the same in Fiscal Year 1989? What about Fiscal Year 1990?

Mr. Simpson: Statistics for the five year period from 1984 through 1988 indicate a steady receipt of counterfeit cases, averaging 16,000 plus per year. During this same period, the average number of staff-hours devoted to investigating counterfeit cases maintained a 13 percent average of total Investigative resources. This does not represent a dramatic increase when compared to passing and seizure statistics. However, counterfeiting cases are becoming larger in scope, more complex, and more staff-hours intensive. Also, drug related activity is present in an ever increasing number of counterfeit cases.

The Service projects slight annual increases in the receipt of counterfeit cases during Fiscal Year 1989 and 1990.

Credit Card Fraud

Senator Deconcini: Has the fraudulent use of these cards (credit and debit) been increasing or staying about the same? What can be done to make the system more secure? What about computer fraud? What are you seeing in this area?

Mr. Simpson: Credit card fraud losses sustained by the banking industry amounted to $430 million in 1985 and grew to $835 million in 1988. This is a 94% increase. These statistics were derived from industry sources including Visa and Master Card International, the Communications Fraud Control Association (telecommunications fraud), Ernst and Whinney (computer fraud), The Nilson Report, a respected trade publication, and our arrest data base.

Based on current credit card industry projections on volume of growth and fraud losses, the number of cases referred and associated fraud dollar losses will increase dramatically. Fraud losses in 1988 were $835

million and are projected to increase to $1.4 billion by 1993, a 75% increase. However, the increase is generated by the increasing use of these cards and not by increasing fraudulent use.

Other industries are also affected by credit card fraud. The long-distance telephone carriers experienced fraud losses in excess of $500 million in 1988.

To put this in perspective, against the actual fraud losses of $1.35 billion reported by these industries in 1988, we observed a total of $69 million in fraud losses associated with our arrests. This is about 3% of the total losses.

Our credit card arrests last year suppressed another $112 million.

Fraud losses directly affect the American public. These losses are passed onto the consumers in the form of higher costs for goods and services and higher interest fees.

We have witnessed the willingness of the affected industries to do all they can to identify, investigate, and work to prevent fraud. As new crimes evolve which threaten the industries, they are poised to respond to these challenges.

This effectiveness is best demonstrated by the effect our combined efforts had on the counterfeiting of credit cards. Once the most significant threat to the industry, counterfeit credit cards have ceased to be a problem. This was accomplished through the use of new card security features by the credit card industry combined with the cooperative efforts and investigative abilities and determination of the Secret Service.

Other measures taken by the industry include: rewards for the recovery of lost or stolen cards, education programs for merchants on fraudulent activities, redesign of credit cards to include security features, and Point-of-Sale terminals which authenticate cards at merchant establishments. We have witnessed a willingness on the part of the industry to invest in these preventive measures and view it as a cost of doing business.

To make the system more secure, we need continued cooperation in order to identify the vulnerabilities of the systems being exploited by modern white collar criminals. You have given us the tools by enacting effective legislation and we have joined with the industry to aggressively enforce these laws.

The Secret Service recognizes that the computer systems in the United States are vulnerable to attack.

Everyday we read stories in the newspaper reporting real stories of intrusions and schemes perpetrated using computer systems.

Today, we live in the computer age and information is the commodity of the 1980's. Crimes pertaining to computers are on the rise. No one can give you accurate statistics on the amount of computer crime experienced by our society. Suffice it to say it is significant.

Although we see computers used in crimes at every level, the real threat is the professional criminal who can use computers to embezzle, trade on inside information, access competitors' databases, or electronically transfer millions of dollars in the blink of an eye.

The Secret Service has seen:

- White collar professionals using a computer to attack an Automated Teller Machine network in an attempt to steal $14 million.

- Professional criminals using computers to access the databases of telecommunication companies to steal and re-sell long-distance telephone codes. In one case alone, we were able to document losses in the millions of dollars.

- Criminals who use computers to invade credit bureaus and steal the biographical data and good credit ratings of innocent victims and use the credit information for loans and credit cards.

- Professional criminals using computers to keep track of their illegal enterprises.

We have recently instituted modern computer fraud training courses for our special agents. We have also implemented a computer diagnostics center to use as a resource to expedite the handling of these complex cases.

Again, you have armed us with effective legislation in the form of 18 USC 1030 to meet this growing challenge.

We believe these measures will position us to effectively deal with computer related crimes over which we have jurisdiction.

In short, just as computers have become a part of our daily lives, so too they have influenced the lives of criminals. They are using them to make complex crimes simpler.

Questions Submitted by Senator Domenici

FY 1990 Bush Budget

Senator Domenici: What changes, if any, does the Fiscal Year 1990 Budget President Bush has submitted propose to the Fiscal Year 1990 Reagan funding request for the Secret Service?

Mr. Simpson: We are currently unclear as to what changes President Bush has proposed to former President Reagan's FY 1990 budget request for the Secret Service.

Official Reception and Representation Expenses

Senator Domenici: The Fiscal Year 1989, Appropriation enables you to spend up to $12,500 for official reception and representation expenses. What level of funding is generally required to cover these expenses? How much did you expend for these purposes in Fiscal Year 1988?

Mr. Simpson: The present level of funding of $12,500 is required each fiscal year to cover the costs for reception and representation expenses. The reception and representation costs for FY 1988 totalled $11,250.

The categories of expense are as follows:

1. Consultative, advisory and liaison activities with Federal, state and local officials;

2. Consultative, advisory and liaison activities with foreign security officials;

3. Consultative, advisory and liaison activities with members of the private sector whose activities impact the Secret Service mission;

4. Tours of Secret Service facilities and nearby points of interest to familiarize outside officials with Secret Service operational areas;

5. The provision of meals or refreshments at dedications or awards-type ceremonies or receptions;

6. The purpose of flowers, wreaths, etc. on appropriate occasions as dictated by customs for important personages.

Rowley Training Center

Senator Domenici: In Fiscal Year 1989, the remaining $2.5 million was provided to fully fund the completion of the Master Plan for construction at the James J. Rowley Training Center. What is the current

construction schedule for completion of all phases of the Master Plan? What amount of the funding provided for construction at the Rowley Training Center will be obligated in Fiscal Year 1989? Will all of the funds provided for construction at the Center be obligated by the end of Fiscal Year 1990?

Mr. Simpson: Construction is currently underway or contract negotiations taking place on all parts of the revised Master Plan.

Construction of the Security and Computer Building and new main entrance, Protective Driver Training Course, Water Tower, Storm Water Drainage Pond #2, and Simulated Airport Apron is underway and scheduled for completion this Spring.

A contract for construction of the Tactical Response Training Area and the Observation Tower will be awarded by GSA in March, with commencement of construction this Summer. Completion of these facilities is scheduled for the Spring of 1991.

Contracts will be awarded this Summer, and construction will begin on the Perimeter Road Network and the Physical Training Building. We expect completion of the Perimeter Road Network in the Fall of 1990 and the Physical Training Building in the Summer of 1991.

The additional $2.5 million (no-year) provided in the Service's Fiscal Year 1989 appropriation will be obligated in Fiscal Year 1989. The Service anticipates that the unobligated balance of construction funds from prior Fiscal Years will be obligated by the end of Fiscal Year 1990.

FY 1989 Reprogramming Proposal

Senator Domenici: The Fiscal Year 1990 Reagan budget request proposes to reprogram $5,148,000 from the "Travel", "Transportation of Things", "Other Services", and "Equipment" object classifications to salaries and benefits to allow the service to fully fund its authorized FTE level of 4,298. What will be the impact of the funding reductions proposed in these non-personnel related object classifications?

Mr. Simpson: The Service will be forced to reduce or eliminate funding previously planned for the following areas:

1. Purchase of replacement vehicles
2. Training of personnel
3. Transfer of personnel between duty stations
4. Development of an access control system for the White House

5. Purchase of replacement weapons. We will need to lengthen the time required for replacement of our weapons inventory from three years to four.

Emergency Response Team

Senator Domenici: How many FTE are being allocated in Fiscal Year 1989 to implement the first Phase of the Emergency Response Team? How many additional positions are being requested in Fiscal Year 1990 to fully staff this team? What is the level of funding required for these new positions?

Mr. Simpson: We can provide this information to you in an executive session.

Van Ness Center

Senator Domenici: You indicated that upon completion of the Van Ness Center in FY 1990, the Service will be required to provide protection to the foreign embassies locating at the center. Is the Van Ness center scheduled to be completed on October 1, 1989? Will the embassies locating at the center be vacating other locations in Washington D.C., which will no longer require your protection? In other words, does this represent a shift in your protective duties from other locations to this new one where a number of embassies will be co-located or is this an additional site you must cover?

Mr. Simpson: The Van Ness Center is now scheduled to open on March 1, 1990.

All 22 countries who will occupy the Van Ness Center will represent new foreign mission locations and will not replace existing locations.

Security at Rowley Training Center

Senator Domenici: What number of additional positions are being requested to provide additional security at the expanded James J. Rowley Training Center? What additional amount of funding is required to fund these positions?

Mr. Simpson: The Service requested five Special Officer positions in the FY 1990 budget. If received, these positions will be used at 1800 G Street. No additional positions will be assigned for security purposes to the Rowley Training Center.

Security at Headquarters Building

Senator Domenici: What number of positions are being requested to provide additional security as a

result of acquisition of the 10th floor of 1800 G street? What level of funding is associated with these positions?

Mr. Simpson: The Service is requesting five Special Officer positions in the FY 1990 budget and the required funding is $143,000.

Vice President's Residence

Senator Domenici: How many additional FTE positions are being requested for assignment to the Vice President's Residence? What level of funding is associated with these positions?

Mr. Simpson: We can provide this information to you in an executive session.

Implementation of Executive Order 12333

Senator Domenici: Funds are included in your Fiscal Year 1990 request to fully implement Executive Order 12333 at the White House Complex. What is required by this executive order?

Mr. Simpson: Executive Order 12333 requires the Department of Treasury "To conduct, through the United States Secret Service, activities to determine the existence and capability of surveillance equipment being used against the President of the United States, the Executive Office of the President, and, as authorized by the Secretary of the Treasury or the President, other Secret Service protectees and United States officials. No information shall be acquired intentionally through such activities except to protect against such surveillance, and those activities shall be conducted pursuant to procedures agreed upon by the Secretary of the Treasury and the Attorney General."

Headquarters Consolidation

Senator Domenici: The Fiscal Year 1990 Request includes $7.6 million for expansion of the Secret Service Headquarters at 1800 G Street. Before the Secret Service can complete its consolidation effort, the NSF must vacate the space it occupies at this location. When is NSF expected to relocate? The Fiscal Year 1989 Request included $2,660,000 for this space consolidations effort. Have these funds been obligated for this purpose? Your Fiscal Year 1990 Request includes a total of $7.6 million for this effort, $2.3 million for increased rental payments to GSA and $5.3 million for other services. Would you please provide us with a breakdown of the $5.3 million "Other Services" funding requirement? What savings are being realized in GSA rental payments as a result of the Service vacating other space or is this $2.3 million a net figure?

Mr. Simpson: We understand NSF has a prospectus and that solicitation for a suitable building will begin shortly. The identification of a suitable, existing building could mean relocation of NSF within a very short time frame.

The funding ($2,660,000) for the consolidation effort has not been obligated at the present time. However, the Service is actively working with GSA to obligate these funds.

FY 90 Rent	$2,316,000
Other Services	$5,300,000
Total	$7,616,000

The Secret Service plans to use the $5.3 million in Other Services funding for the planning, preparation and renovations necessary in line with acquiring the additional space we need for consolidation. The $2.3 million requested for rental payments is a net figure.

Absorptions

Senator Domenici: What amount of funding associated with personnel pay and benefit costs are you being required to absorb in each of Fiscal Year 1989 and 1990?

Mr. Simpson: In Fiscal Year 1989 we are absorbing approximately $13.7 million in pay and related benefits costs. This total includes $3.6 million for the 1989 Federal pay raise, $1.3 million for the 1988 Uniformed Division pay raise, $1 million for increased health benefits costs and $7.8 million for a shortage in our personnel compensation and benefits costs accounts for previously unfunded cost increases; the most significant of these being the costs of the new Federal Employees' Retirement System.

In Fiscal Year 1990 we will be absorbing a total of $5.9 million (includes $3.6 million which was absorbed in Fiscal Year 1989) for the full year cost of the 1989 pay raise. In addition, the Service will be forced to continue to absorb the basic shortage in our personnel compensation and benefits accounts. The President's budget proposes a 2% Federal pay raise in 1990. The costs of this pay raise would also have to be absorbed.

Mr. Domenici: What amount of funding associated with inflationary cost increases are you being required to absorb in Fiscal Year 1990?

Mr. Simpson: The Service, along with the Department, developed estimates as to the expected total increase in costs for our non-pay accounts for Fiscal

Year 1990. Our budget request for FY 1990, however, contains only the additional resources for increased costs that reflects the President's current economic assumptions regarding inflation. If these economic assumptions prove to be correct our budget will not be absorbing any increased, non-pay costs.

Campaign 1988

Senator Domenici: A total of $7,126,000 was provided in Fiscal Year 1989 to cover the costs of the 1988 Presidential Campaign. Were all of these funds obligated? What was the total amount spent on 1988 Presidential Candidate Protective activities?

Mr. Simpson: All funds included for Fiscal Year 1989 for Campaign and Inaugural activities were expended.

Total campaign related expenditures for the 1988 Presidential Campaign are as follows:

Fiscal Year	Amount Obligated	Purpose
FY 1987	- $ 5,900,000	Equipment & Training
FY 1988	- $25,285,000	Campaign Activities
FY 1989	- $ 7,126,000	Campaign & Inaugural Activities

Unfilled Positions

Senator Domenici: The "Detail of Permanent Positions" on page SS-25 of your appropriations justification indicates that 161 permanent positions remained unfilled at the end of Fiscal Year 1988. Furthermore, you expect 163 positions to remain unfilled at the end of Fiscal Year 1989 and 113 to remain unfilled at the end of Fiscal Year 1990. This level of unfilled positions in Fiscal Years 1988 and 1989 is almost double the number of unfilled positions projected in last year's budget submission. Why has the level of unfilled positions increased so substantially above your initial projections and why are so many positions remaining unfilled.

Mr. Simpson: The projections in our Fiscal Year 1989 request represented our best guess as to the level of end-of-year filled positions at the time; given the very aggressive hiring campaign that we were, and continue to be, involved. However, with the economy virtually at full-employment and the level of federal pay continuing to fall behind the levels in the private sector, we have been less than fully successful in meeting our hiring goals.

Flexible Freeze

Senator Domenici: What would be the impact on the Secret Service if it was placed in the "flexible-freeze" category of spending contemplated by the Bush Fiscal Year 1990 budget plan, i.e., if its budget authority was held to the level necessary to maintain the Fiscal Year 1989 outlay level?

Mr. Simpson: It is our guess that our level of funding under this situation would be somewhat greater than the level which is proposed in former President Reagan's budget for the Secret Service. Therefore, there would be no adverse impact for us under this situation.

Senator Domenici: What would be the impact on the Secret Service if its appropriation level in Fiscal Year 1990 was held to the Fiscal Year 1989 level, especially in light of the fact that this level would include $18.7 million in non-recurring costs and savings?

Mr. Simpson: Although this level includes $18.7 million in non-recurring costs, our budget request includes a total of $11.1 million to cover inflationary costs and $18.6 million for necessary program increases. Therefore, funding at this level would leave us nearly $11 million below our requested level. We have no choice but to meet the increased costs of rather non-discretionary expenses, therefore, this shortfall would have to come from our proposed program increases. We would have to forego, for instance, adding additional staff; put "on hold" our efforts to consolidate our headquarters operations; and delay necessary security improvements at the Vice President's residence.

Inspector General Transfer

Senator Domenici: The Fiscal Year 1990 request reflects the transfer of three FTE positions and $156,000 to the new Department of Treasury Office of Inspector General. What number of positions and amount of funding is currently required to perform your internal audit function?

Mr. Simpson: With the passage of Public Law 100-504, the "Inspector General Act Amendments of 1988" the Secret Service was required to transfer resources to the Treasury Department. The funds being transferred reflect the actual cost being incurred for three internal auditors on an annual basis. These costs include, personnel compensation and benefits, travel, rental of space, equipment rental and necessary training.

The Service had three full-time positions devoted to the internal audit program. The positions and associated costs, which are to be transferred, accurately reflect what the Service is currently using to perform the internal audit function.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

STATEMENT OF STEPHEN E. HIGGINS, DIRECTOR

ACCOMPANIED BY:

WILLIAM T. DRAKE, ASSOCIATE DIRECTOR, COMPLIANCE OPERATIONS

DANIEL M. HARTNETT, ASSOCIATE DIRECTOR, LAW ENFORCEMENT

CHESTER C. BRYANT, COMPTROLLER

PAUL R. GENTILLE, FINANCIAL MANAGER

DAVID M. NUMMY, ACTING ASSISTANT SECRETARY OF THE TREASURY FOR MANAGEMENT

EDWIN A. VERBURG, DIRECTOR, FINANCIAL SERVICES DIRECTORATE

INTRODUCTION OF WITNESSES

Senator DECONCINI. Next we will hear from the Bureau of Alcohol, Tobacco and Firearms. Testifying will be Mr. Stephen Higgins, the Director.

We welcome you, Mr. Higgins, and your staff, to the committee. If you care, please introduce those who are here, and then we can proceed with your summarized statement.

Mr. HIGGINS. Thank you, Mr. Chairman and members of the subcommittee.

We do appreciate this opportunity to appear before you in support of our fiscal year 1990 budget request. In our view the amounts requested are reasonable and justifiable considering the many competing demands for scarce departmental resources.

With me today on my immediate right is Mr. Bill Drake, who is Associate Director for Compliance Operations. On my left is Dan Hartnett, who is Associate Director for Law Enforcement; he is making his first appearance. Mr. Chet Bryant is our Comptroller and is on Mr. Drake's right. Mr. Paul Gentille is our Financial Manager. They will assist me in responding to your questions.

From past experience, we know the committee and its very competent staff are going to have a number of important questions to ask in a very limited amount of time. Accordingly, I would simply like to introduce my lengthy narrative statement for the record, with your permission.

Senator DECONCINI. Without objection, it will appear in the record.

Mr. HIGGINS. And then show a short videotape and respond to your questions.

ARMED CAREER CRIMINAL PROGRAM

Each year we try to emphasize a program or a problem of particularly timely significance. This year we would like to give you a video look of about 11 minutes at our efforts to use the resources

and statutes you have given us to target the violent armed career criminals.

The only thing I would like to add before we show the film is our sincere appreciation for your continuing support of the Bureau's mission and its programs. I believe we have used the resources you have given us in a responsive, effective and professional manner with impressive results.

With that, with your permission we will show the video.

Senator DECONCINI. Please proceed.

[Videotape presentation.]

Mr. HIGGINS. That completes our remarks, and we are available for questions.

PREPARED STATEMENT

Senator DECONCINI. That is a good film, Mr. Director.

Without objection, your prepared statement will be inserted into the record at this point.

[The statement follows:]

STATEMENT OF STEPHEN E. HIGGINS

Mr. Chairman and Members of the Subcommittee, it is a privilege to appear before you in support of the fiscal year 1990 budget request for the Bureau of Alcohol, Tobacco and Firearms. Accompanying me are my colleagues: Mr. William Drake, Associate Director, Compliance Operations; Mr. Daniel Hartnett, Associate Director, Law Enforcement; Mr. Chester Bryant, Comptroller; and Mr. Paul Gentille, Financial Manager.

FISCAL YEAR 1990 BUDGET SUMMARY

As you are aware, the President's fiscal year 1990 budget proposes freezing, at fiscal year 1989 levels, the aggregate spending of domestic programs not directly associated with one of his five broad initiatives. Although most of our programs are included in this category, the President has emphasized that the freeze is flexible, allowing some programs to increase while others are reduced.

We expect that final decisions about whether to increase or decrease specific programs within this freeze category will be determined through top level deliberations and negotiations between the Administration and Congress.

Today, we are prepared to discuss a number of initiatives, program reforms and/or reductions to fiscal year 1989 spending levels that were presented in the budget submitted in January.

It should be emphasized that the President has not proposed that funds be appropriated for these particular adjustments. Therefore, our discussion must be viewed as providing the Committee with information on "candidate" areas which could be increased or decreased within the context of the overall freeze.

MANAGEMENT EFFICIENCIES

ADMINISTRATIVE

In fiscal year 1988, the Bureau continued to improve its service, train its employees, and comply with Reform 88 initiatives.

The Bureau acquired state-of-the-art equipment in its laboratories to perform many kinds of essential examinations. Examples are the flameless atomic absorption spectrophotometer used to analyze heavy metal and lead in wine, and the gas-chromotagraph/mass-spectrometer used for arson and explosives analyses. Two Fourier transform infrared spectrophotometers were acquired to analyze explosives residues. These instruments have improved the speed and quality of our scientific examinations.

Progress was also made in the areas of automated data processing (ADP), and office automation is still an ongoing priority. These two disciplines were combined under the auspices of our Agency Consolidated Information System (ACIS) project.

In May 1988, a major step was accomplished in that the existing mainframe (IBM 4341) was co-located with the newly acquired IBM 4381 mainframe.

We established a Career Resource Center for Bureau employees in May 1988. The Center contains a lending library, self-study materials, a learning carousel, and space for small seminars or discussion groups.

Substantial progress in improving employee health and morale has occurred. For example, the Health Improvement Task Force, which was established in fiscal year 1987, reviewed fitness programs to determine which model would be appropriate for our Bureauwide program. A coordinator was recently hired to oversee the Bureau's health improvement program and ensure the physical environment of ATF facilities is conducive to the well-being of employees.

The Bureau is in compliance with OMB Circular A-123, "Internal Control Systems" requirements since no material weaknesses emerged in fiscal year 1988. Further, several internal audits and management reviews are scheduled for fiscal years 1989 and 1990. Steps have been taken to ensure that these reviews will be well coordinated and that audit findings and recommendations are promptly implemented. Thirty-three reviews were scheduled in fiscal year 1988 and 36 reviews were performed. In addition, the Bureau is in the process of updating its manual corrective action tracking system so it is compatible with the Department's. Implementation of the system is scheduled to take place during fiscal year 1989.

The Bureau continues to rely on private sources to perform inhouse commercial functions in accordance with OMB Circular A-76.

Efforts to reduce costs were made in the following areas:

—Office of Workers' Compensation Claims Program (OWCP) continue to be audited internally and indictments are brought against individuals when cases of fraud are discovered. Training has been provided to supervisors to familiarize them with the intent and use of the program.

—A MasterCard program for small purchases was recently implemented. It is expected to reduce processing of requisitions and increase savings.

As part of the Reform 88 initiatives, we developed an automated standard general ledger which is now in use.

Plans are underway to convert to the Department of Agriculture Payroll/Personnel System by April 1989. In fiscal year 1988, Bureau representatives attended training for the new system at Agriculture's National Finance Center in New Orleans.

Regarding compliance with the Paperwork Reduction Act, total public burden hours were reduced by approximately 595,000 hours during fiscal year 1988 and further reductions are anticipated in fiscal year 1989.

These administrative management initiatives and accomplishments enhance the base of support for the major programs in our Law Enforcement and Compliance Operations activities and result in improved Bureau operations.

COMPLIANCE OPERATIONS

Management improvements in Compliance Operations continue in the following areas:

—Using "lockboxes" and contractors to perform activities that can be performed by non-government personnel;

—Consolidating functions that can be run more efficiently at one location;

—Performing efficiently and economically activities that were previously performed by other agencies;

—Automating high-volume operations; and

—Providing equipment and training to employees so they can more effectively enforce Federal laws and regulations.

Use of the lockbox system for processing alcohol and tobacco returns and remittances has proven to be a very efficient cash management tool because tax receipts are more quickly deposited for use by the United States Government. The lockbox bank not only processes returns and remittances, it also performs significant data-entry services for ATF. These lockbox services have resulted in substantial savings to ATF when compared to costs in prior years.

No serious problems have been encountered with the continued use of the lockbox arrangement for firearms and explosives license and application fees. We are saving over $100,000 a year in processing costs; and, combined with the benefits derived from licensing-section consolidations, we are able to issue firearms and explosives licenses more efficiently and expeditiously.

One lockbox bank efficiently processes tax payments on transfers of firearms covered by the National Firearms Act. These firearms include machine guns and other weapons subject to transfer taxes.

ATF uses third-party vendors to perform several activities related to special occupational taxes by contracting out mailing renewal returns to more than 400,000 special occupational taxpayers, issuing stamps and mailing follow-up notices to nonfilers. We determined this system to be more efficient and less expensive in terms of personnel and equipment for ATF. The use of contractors takes advantage of their available equipment and experience in handling high volume mail operations.

Special Occupational taxes were increased on January 1, 1988, and ATF was able to amend an existing contract to have the contractor mail over 420,000 mid-year tax notices to all affected businesses. This one-time effort resulted in considerable savings in personnel and equipment costs, as well as allowing ATF to meet the deadlines mandated by Congress. More importantly, over $35 million was collected as a result of this mid-year special occupational tax effort.

ATF assumed deposit and accounting responsibility for its own taxes in July 1987, and we decided to consolidate these functions in one location. The tax processing center has provided the following benefits: training of employees in new activities is improved and more efficient; equipment purchases are kept to a minimum; interagency cooperation with IRS, FMS and others are improved; and monitoring of these important functions is made easier.

The assumption of deposit and accounting functions in 1987 gave ATF the opportunity to more efficiently monitor the collection of excise taxes for which it is responsible. Because ATF specialists in technical services are more familiar with ATF taxes and the entities which pay them, compliance matters and tax delinquencies are being resolved quickly and efficiently. This opportunity to more efficiently monitor the collection of excise taxes is being fully realized due to the tax processing center and associated automation efforts which are being integrated with technical services operations to provide for even quicker response times and efficiencies.

ATF specialists know which excise taxpayers are required to make payments twice a month. If a return and remittance are filed late or with "insufficient funds" or not filed at all, ATF specialists quickly identify these problems and initiate prompt corrective action. Quick action is often critical since a taxpayer who files late (or not at all) may be having financial problems; and we must act quickly to protect the Government's interest in any bankruptcy proceedings or tax avoidance scheme.

Congress appropriated $2.5 million in no-year funding for fiscal year 1989 ". . . for the purchase of a mainframe processor and associated hardware and software for special occupational and excise tax processing." This equipment will improve excise tax collection for the large number of special occupational taxpayers 600,000 of which 240,000 may be delinquent). The funding is also important to adequately account for over $10 billion in excise tax revenues and $200 million in refunds on claims.

ATF regulates over 285,000 firearms and explosives licensees and permittees. To handle this workload, four of our seven regional licensing functions were consolidated into one highly automated location. This consolidation enabled ATF to more effectively respond to inquiries from law enforcement officials and more efficiently act upon license applications. Since these efforts have been successful, further consolidation is planned for the remaining regional licensing sections in fiscal year 1989.

ATF is in the third year of an agreement with the U.S. Customs Service whereby ATF inspectors perform examinations at customs bonded warehouses handling alcohol only. The agreement, which was initiated at the direction of Congress, has benefited all affected parties. It improves the overall efficiency of the Bureau and provides us with another tool for protecting excise taxes and ensuring public safety. Industry benefits because its representatives and operations are disrupted less frequently. The U.S. Customs Service benefits because ATF officers, using their knowledge of the alcoholic beverage industry, have detected violations and tax deficiencies at these facilities, while freeing up Customs resources to perform other vital services.

ATF processes tens of thousands of requests each year for alcohol beverage label approvals. By statute, we also maintain detailed records concerning fully automatic and certain other weapons covered under the National Firearms Act. In these two areas, we have automated our files so that the records are more efficiently maintained and information more accessible.

The automation of our label approval files has been particularly advantageous to both industry and ATF because requests for label approval are processed twice as quickly as in the past. Industry representatives and members of the public benefit

because they now have speedy and accurate access to our label approval files. If there is a question of product integrity, labels can be researched quickly to ascertain which industry members distribute these products. Affected inventory can then be removed from shelves to protect public safety.

ATF has upgraded the skills of its tax specialists and other employees by providing them with modern equipment and advanced training. Office computers and software materials have been obtained for all regional and area offices and upgrades and additional equipment will be provided as required. ATF has provided its auditors with laptop computers to enable them to better assist Law Enforcement special agents during arson investigations, and for use in excise tax examinations. ATF continues to provide advanced training in areas such as: white collar crime; automated data processing (ADP); advanced examination techniques; interview techniques; expert-witness testimony; and management courses.

LAW ENFORCEMENT

Management improvements in the area of Law Enforcement include the co-location of the out-of-business records and the firearms tracing functions to provide more efficient and effective supervision and control; and improvements in our Agency Consolidated Information System (ACIS).

ATF has recognized for some time the need to develop an integrated law enforcement information data base in support of law enforcement investigative operations and activities. The Treasury Enforcement Communications System (TECS) II data base was implemented during fiscal year 1988, as a result of a mandate from the Department of the Treasury. ATF has converted all of its 120 TECS I terminals to TECS II terminals. In addition, it is anticipated that 1,500 terminals will have access to TECS I, National Crime Information Center (NCIC) and National Law Enforcement Telecommunications System (NLETS) by the end of fiscal year 1991. These terminals will be located in Law Enforcement districts and field offices throughout the United States.

During fiscal year 1988, ATF converted its firearms and explosives licenses, firearms tracing, National Firearms Act (NFA) registrations, explosives incident, and Law Enforcement Management Information System (LEMIS) records to the newly acquired ATF mainframe. To totally integrate our law enforcement network, ATF has obtained a contract with an 8A firm to install mini-computers in all of our 22 district offices throughout the United States. Implementation will be accomplished over the next 2 years.

In fiscal year 1989, ATF will install 11 minicomputers and integrate them through the Consolidated Data Network with the TECS mainframe, ATF mainframe, Wang, NCIC, and NLETS. This will allow the Bureau to access multiple hosts through a single network. In addition, new applications are being designed and developed to permit ATF to place many of its manual functions on computer. This will enable ATF to have on-line, interactive data entry and retrieval; user friendly querying and report generation; and statistical and analytical capabilities—all in a modern, integrated computer system.

As part of ATF's commitment to the TECS II project, ATF will design and develop its own in-house computer system that will allow ATF to remove all its applications from the U.S. Customs Service mainframe. It is anticipated that this will be accomplished during fiscal year 1990, with the conversion of applications from TECS II to ATF's computer. ATF will continue to utilize TECS for a subject record file but will remove all other data from the system, allowing additional space for Customs applications. During fiscal year 1989, we will begin the conversion of design and development of the necessary new applications and the conversion of those applications presently resident on TECS II to acceptable machine language which is usable by ATF's IBM mainframe.

LEGISLATIVE CHANGES

The Technical and Miscellaneous Revenue Act of 1988, Public Law 100–647, established an excise tax on pipe tobacco. Effective January 1, 1989, a tax of $.45 per pound must be paid on pipe tobacco removed from manufacturers' premises. In addition a floor stocks tax is levied on pipe tobacco in inventory at the time of the effective date of the Act. We estimate that $7 to $10 million will be collected annually as a result of this tax.

Title VIII of the Anti-Drug Abuse Act of 1988, Public Law 100–690, amended the Federal Alcohol Administration Act by requiring warning labels concerning the health hazards associated with the consumption or abuse of alcoholic beverages.

This will be implemented by means of a warning label located in a conspicuous and prominent place on containers of alcoholic beverages.

This same Act implemented additional legislation by amending the 1986 Gun Control Act and the National Firearms Act. This legislation has several provisions, some of which enhance the penalty statutes of existing laws and will be useful in assisting ATF in its fight against violent/narcotics crimes, since these provisions mandate sentences with neither probation nor parole.

The legislation also provides additional investigative tools for ATF in its fight against narcotics traffickers and armed career criminals who use firearms in furtherance of their criminal activity. One new provision of the statute provides wiretap authority on all felony offenses under 18 U.S.C. 922 and 924 and 26 U.S.C. 5861.

While it is too early to identify specific problem areas, initial evidence indicates that implementation of the new legislation is progressing at an exceptional rate. The amended laws and statute authority (and their impact upon our law enforcement efforts) are continually being monitored until a definite trend can be identified in their application. This will create a uniform application of the new laws with consistent review and discussions of questions being raised by the courts, attorneys, citizens, and law enforcement officials. ATF regards the Anti-Drug Abuse Act as an effective tool to assist in the national fight against narcotics crimes and the armed career criminal.

Also under the Anti-Drug Abuse Act, resources for the Organized Crime Drug Enforcement Task Force (OCDETF) are to be transferred to a separate appropriation under the Department of Justice. Although policy guidance will be provided by Justice, ATF will actively participate in OCDETF on a reimbursable basis for fiscal year 1990. In keeping with the requirements of this Act, the Bureau will transfer $8,612,000 and 128 FTE positions for this purpose.

On October 18, 1988, the President signed the Inspector General Act Amendment of 1988, P.L. 100-504, which establishes a statutory Inspector General within the Treasury Department. The amendment mandates the transfer of the Internal Audit function to the Office of the Inspector General, Department of Treasury. The Bureau will transfer $905,000 and 19 FTE positions in support of this Act.

COMPLIANCE OPERATIONS PROGRAMS

ATF regulates several industries which market products that are sensitive in nature and subject to continued public interest. Our philosophy has been to regulate only in those areas which need to be regulated and to the extent necessary to achieve the intent of law. A balance is sought between effective administration of statutory requirements, the legitimate needs of industries under ATF's jurisdiction and the protection of the public. The Bureau is extremely selective in setting goals to assure effective resource utilization. Field inspections are concentrated on those areas which cause the most jeopardy to revenue collection or which pose the greatest threat to public safety. Compliance Operations field offices continually assess and report on the compliance climate in their geographical jurisdictions. Field supervisors continually consult with their Law Enforcement counterparts to discuss problems of mutual concern and to identify specific areas to target so that ATF's Law Enforcement mission is fully supported. Compliance Operations then targets its examinations to those entities where the greatest potential for noncompliance exists. Throughout the year, and especially at its conclusion, we analyze the progress made in our field programs, make necessary revisions and identify new targets for the following year.

In addition to our regulation and field programs, we have adopted several other initiatives to increase compliance levels. We are improving the productivity of our employees by providing advanced training and by automating various activities in our offices. In all program areas, we conduct educational seminars which involve the active participation of industry members and state agencies. These seminars are creating an atmosphere in which our requirements are better understood and more likely to be complied with by all industry segments.

CO ALCOHOL PROGRAM

The Bureau's alcohol compliance program is responsible for: preventing entry of criminals or other prohibited persons into the industry through a qualification program; ensuring collection of alcohol beverage excise taxes through field examinations and office reviews; protecting public safety by ensuring the integrity of alcoholic beverage products; and providing an orderly marketplace so producers, distributors and consumers can trade freely.

This program will be reduced by 130 FTE positions and $8,000,000 from the non-revenue producing sub-programs in fiscal year 1990. This reduction reflects proposed legislation to amend the Federal Alcohol Administration Act to make it administratively more cost efficient, while retaining an adequate level of Federal oversight of the alcohol industry. For example, Section 5(e) of the FAA Act can be amended to permit alcoholic beverages to be introduced into the marketplace without prior approval of the product's label, especially for existing products. ATF would continue to issue regulations and guidelines concerning proper labeling and/or advertising requirements. If a compliance question arises about a label or advertisement, ATF would use its investigatory powers to ensure that the product complies with the legal standards. Additionally, it may be possible to allow the alcohol industry to assume some responsibility for establishing non-discriminatory standards for entrants to the industry, as is done in other professional sectors. One ground rule for the FAA Act amendments is that they would not reduce the amount of excise tax collected, nor would they expose consumers to greater risk of contamination.

QUALIFICATION

ATF is responsible for keeping prohibited and unqualified persons out of the alcohol beverage industry. The qualification process also keeps out those persons who may attempt to launder money obtained from illicit activities.

We achieve our goals in this activity in two ways. First, under our qualification process, permits are issued only to those individuals who have the necessary business experience, are not statutorily prohibited and are likely to comply with statutory requirements. Second, ATF ensures that entities already qualified and possessing permits remain in compliance by conducting highly selective investigations to determine that no hidden ownership or illegal funding has occurred. Some examples of our qualification activities are listed below:

An inspector determined that an applicant for a wholesaler's permit had prior drug-related convictions. Rather than face continued scrutiny, the applicant withdrew the application.

A regional office specialist advised an inspector that an applicant for an importer's permit might have a criminal history. The inspector subsequently determined that the applicant was the subject of an extradition warrant to the Federal Republic of Germany for embezzlement. The inspector arranged to meet the applicant in a public lobby where the unsuspecting applicant was arrested by U.S. marshals and ATF special agents.

Field and regional office employees determined that an applicant for a permit had made false statements. The applicant eventually pled guilty to criminal charges.

Inspectors determined that an applicant for a permit owed $135,000 in excise taxes, plus penalties and interest. During other application inspections, inspectors identified tax liabilities owed by applicants for permits. These incidents demonstrate the very close inter-relationship between the qualification and revenue activities.

TAX COMPLIANCE

In December 1987, the rates for special occupational taxes (SOT) were raised and extended to 17,000 additional taxpayers. The new rates were effective January 1, 1988, with payment due by April 1, 1988. Since these taxes are normally paid at the beginning of the Special-tax year on July 1, ATF had to initiate two major SOT efforts in fiscal year 1988: one for the mid-year collection, involving a mailout to over 420,000 potential taxpayers; and a second for the full-year collection, involving over 402,000 taxpayers.

ATF collected over $35 million for the mid-year effort and $87 million for the full-year period. An additional $6 million was collected from delinquent taxpayers for prior periods, bringing the total SOT collections in fiscal year 1988 to over $128 million.

ATF estimates there are 240,000 businesses which owe delinquent taxes. We have been gradually building our delinquency program over the past several years, with the result that $2 million in delinquent SOT was collected in fiscal year 1987 and the aforementioned $6 million in fiscal year 1988. Some of the delinquent SOT collections made in fiscal year 1988 include the following:

Inspectors and an SOT clerk initiated the collection of over $156,000 from a chain of retail dealers. There were other collections of delinquent SOT; for example, $9,000 by an inspector from an applicant for a permit;

$123,000 by clerks in an area office; and $46,000 during a one-week period by inspectors and clerks in another area office.

Technical Services offices nation-wide contacted over 37,000 retailers and collected over $2.4 million from 9,000 delinquent taxpayers.

Historically, ATF has encouraged the alcohol industry to pay the proper amount of excise taxes through a strong revenue examination program. In fiscal year 1988, ATF collected $5.7 billion in alcohol excise taxes. The current high rate of excise tax compliance is directly related to this enforcement effort. ATF can expect future compliance to be only as good as the examination, verification and enforcement process.

During fiscal year 1988, the Bureau accepted 38 offers in compromise, amounting to $341,780, for revenue-related violations. Inspectors conducted over 3,600 examinations resulting in: the correction of 1,700 violations; 35 referrals to other agencies; and a total of $4 million in increasing tax adjustments. The following are some examples of these findings.

Inspectors examined a brewery's records and disclosed an unreported, unpaid tax liability of $38,000.

A distillery was found to owe $21,000 in additional taxes for various underpayments. The distillery was also cited for seven other serious violations.

An alcohol-fuel-plant permittee pled guilty to unlawfully selling distilled spirits produced for other than fuel use. The owner received a four-year suspended sentence, 5 years probation, and a $10,000 fine.

An examination at a distillery resulted in the collection of $31,000 in additional taxes. This collection involved the intentional understatement of alcohol content upon which taxes are determined and paid.

An inspector's analysis of removal and inventory records at a customs bonded warehouse disclosed that taxes and duties had not been paid on a large quantity of products. The proprietor eventually paid these liabilities which amounted to $844,000.

In support of examinations conducted at the premises of revenue producing plants, specialists in ATF regional offices review tax returns and other documents submitted by revenue producers. These office reviews are an important part of ensuring that excise taxes are collected and that proper payments of claims are made. For example:

A specialist found that a taxpayer had overpaid taxes by over $1,000,000. The distiller was advised and was credited for the overpayment on a subsequent return.

Specialists in technical services sections initiated rejections of claims totaling $3.4 million.

ATF constantly strives to maintain an effective taxpayment compliance program. The examination skills of inspectors have been increased by an active training program and by management insistence upon high standards. Training, such as Advanced Examination Techniques, is being given to field employees so that they are better able to detect taxpayment deficiencies. To support field operations, ATF has professional auditors who are called on to assist with the most complex and sophisticated taxpayers, and who serve as a technical resource for other segments of the Bureau.

ALCOHOL PRODUCT INTEGRITY

During the past several years, the Bureau has had to deal with several instances in which imported products were contaminated with hazardous ingredients. Foreign wines were found to contain the hazardous substance diethylene glycol (DEG) in 1986. As a result of ATF's sampling and product-removal efforts, millions of wine bottles contaminated with DEG were removed from the market over the last 3 years and destroyed or returned to the foreign producers. More recently, imported brandies were contaminated with methanol and also were removed from the market.

In the product integrity area, we enhanced the already existing market sampling program by obtaining additional laboratory equipment and increasing sampling schedules. We have also created a Bureau Contamination Response Team to monitor each contamination incident and coordinate our response.

Field examinations, sampling programs and other ATF efforts have disclosed that hazardous ingredients are still being introduced into alcohol beverages. Also, ATF employees continue to find significant instances of label problems by which consum-

ers are misled about the contents of alcohol beverages. The following are some examples of these problems.

Inspectors successfully concluded a joint ATF/Customs investigation of an importer who had falsified label approvals. The importer and one of its employees are now being prosecuted for a number of criminal violations.

An importer was found to have brought in imported distilled spirits products and underpaid taxes by using fraudulent labels to falsely indicate that the products were not distilled spirits and, therefore, subject to a lower tax rate. A tax liability of $45,000 has been identified.

INTERNATIONAL ACTIONS

Because of ATF's expertise in the field of domestic and foreign law as it applies to beverage alcohol products, ATF is increasingly being requested to support U.S. Government efforts to minimize or eliminate international barriers impeding U.S. export trade in wine, distilled spirits and malt beverages. For example, ATF played a major role in the September 1988 United States—European Economic Community technical consultations on beverage alcohol products. ATF's participation in these international activities also aids in the handling of contaminated imported products.

ATF is continuing to provide substantial technical data to the Office of the U.S. Trade Representative in its undertakings with respect to the Wine Equity and Export Expansion Act of 1984. To date, this data has made a significant contribution toward facilitating wine export trade to Japan, Canada, Taiwan, South Korea, and the Caribbean area.

MARKET INTEGRITY

To enforce the trade practice provisions of the Federal Alcohol Administration Act, ATF aggressively investigates allegations of significant violations in order to maintain an open marketplace. Our efforts are concentrated on those industry members engaged in illegal interstate activities leaving the less complex, intrastate violations for State agencies to resolve. An indication of the success of this approach during fiscal year 1988 is that 38 cases were resolved and offers in compromise totalling $594,600 were accepted. In addition, permits of five industry members were suspended for a total of 77 days for trade practice violations.

For the past few years, we have held trade practice seminars throughout the country. The purpose of these seminars has been to increase the cooperation between ATF and State agencies and to increase the level of compliance by industry members. The seminars held last year were very well received by both industry and State agencies.

CO TOBACCO PROGRAM

In fiscal year 1988, $4.6 billion in tobacco excise taxes were collected. ATF's tobacco compliance program is similar to the qualification and revenue protection aspects of our alcohol program. Applicants for permits are screened and qualification inspections are conducted to ensure that only eligible persons, likely to comply with regulations, enter the industry. The following incident demonstrates the need to continue with our qualification efforts.

During a qualification inspection of an export warehouse applicant, an inspector determined that a newly-appointed corporate official failed to disclose his prior connection with a company that had been convicted of a felony financial violation. As a result of the inspector's investigative work, the applicant corporation removed this individual from his corporate position not only with respect to the applicant corporation, but also with respect to several other related corporations holding various ATF permits.

CO FIREARMS PROGRAM

The Bureau's firearms program is based upon the Gun Control Act of 1968 (as amended), Public Law 99–308 of 1986, and other statutes. Licenses are required to manufacture, import and sell firearms. The intent of the statutes, and our qualification efforts, is to prevent statutorily prohibited persons from obtaining licenses. In fiscal year 1988, our regional offices processed the following license actions: revocation of II licenses, denial of 105 applications, and withdrawal or abandonment of 1,427 licenses.

A very important aspect of our firearms program is the support given to ATF special agents in their efforts to apprehend criminals and assist other law enforcement

agencies. For this reason, inspectors frequently work with special agents in identifying criminals who purchase firearms and in investigating licensees who criminally misuse their license.

Inspectors also conduct compliance inspections of licensees previously identified as likely to violate the provisions of the firearms statutes. These inspections prevent firearms dealers from making sales to prohibited persons and ensure that a dealer's records are sufficient to trace the flow of firearms used in crime. These inspections also closely examine transactions involving paramilitary and automatic firearms which have been identified as "weapons of choice" and likely to be used by violent criminals.

During fiscal year 1988, over 10,500 inspections were conducted. They resulted in licensees being cited for 5,000 serious violations and 2,000 referrals made to law enforcement agencies. Some examples of these field activities include the following.

Using information received from inspectors in one area office, three criminal cases were written by Law Enforcement special agents. One of the individuals referred to Law Enforcement pled guilty and was sentenced to 15 years without parole as an "armed career criminal."

A referral of information from an inspector to Law Enforcement resulted in the conviction and sentencing of a firearms purchaser who falsified the firearms transaction form.

A compliance inspection disclosed over 200 violations and resulted in 27 referrals to Law Enforcement, the FBI and State police. The license was terminated.

Regional offices are responsible for processing firearms license applications and for maintaining the Bureau's licensee files. At the end of fiscal year 1988, there were 272,953 firearms licensees. Regional offices processed 85,462 applications, of which 32,724 were first-time applicants and 52,738 were renewals.

ATF is also responsible for enforcing the registration and revenue provisions of the National Firearms Act (NFA), a statute which regulates machine guns and types of weapons commonly used by organized crime groups. The Bureau has automated its NFA registration files to handle registration information on hundreds of thousands of NFA firearms and to act more quickly upon requests for information from law enforcement agencies.

As in other programs, the Bureau uses seminars for firearms licensees as a means of improving their understanding of and compliance with Federal laws. State officials are actively involved in conducting these seminars. In fiscal year 1988, 5,200 firearms licensees attended 69 seminars.

CO EXPLOSIVES PROGRAM

ATF's explosives program ensures that licenses and permits are issued only to eligible persons, that records are maintained in order to permit traces of explosives used illegally and that explosive materials are stored safely and securely. Regional office personnel review all applications for accuracy and initiate criminal records checks to prevent prohibited persons from receiving a license or permit. Inspectors examine explosives storage facilities before license or permit issuance to make sure that the facilities meet stringent Federal requirements.

After a person is issued an explosives license or permit, ATF inspectors conduct periodic compliance inspections. These inspections ensure that the storage facilities continue to meet ATF safety and anti-theft requirements, and that sufficient records are maintained to enable law enforcement officers to trace the movement of explosive materials. Examples of the explosives inspections program include:

An inspector discovered 32 cases of deteriorating dynamite in a storage facility and required the immediate removal of the explosives to the permittee's supplier where it was destroyed.

An inspector found a residence less than the minimum distance from an explosives magazine site. Approximately 30,000 pounds of explosives were removed to another location.

Inspection disclosed several violations at a fireworks company. About 275 pounds of explosives were removed from the premises to another licensee's storage magazine for safe and secure storage.

A joint investigation was conducted by an ATF inspector and representatives from the U.S. Customs Service, U.S. Consumer Product Safety Commission and local authorities. An overseas container of fireworks was seized because the importer failed to obtain the proper permits.

LAW ENFORCEMENT PROGRAMS

ATF's Law Enforcement efforts concentrate on those crimes, criminals, or criminal organizations which pose a great threat to American society. Accordingly, ATF has developed and continues to maintain, excellent working relationships with State and local law enforcement officials. Our programs are prioritized and are continually revamped to ensure that we are addressing the most serious criminal threats as perceived by the entire law enforcement community. In fiscal year 1990, Law Enforcement will commit its resources to the investigation of narcotics trafficking, terrorism, arson-for-profit, bombings, and other crimes of violence.

In fiscal year 1988, Law Enforcement focused on apprehending previously convicted felons who perpetuate violence by illegally using firearms. These criminals are singularly responsible for more violent crimes than any other group, and their presence affects the way citizens live and businesses operate. In fiscal year 1990, ATF will continue to identify these criminals, vigorously investigate their crimes, and complete criminal cases for prosecution.

The Bureau is also acutely aware of the alarming increase in domestic and international terrorist/hate groups in the United States. As a result, ATF special agents have initiated numerous investigations concerning the violent misuse of firearms and explosives by these groups. ATF's identification and exposure of these groups continues to heighten national awareness of their violent acts.

ATF is also committed to investigating and exposing corrupt profiteers who knowingly and willfully traffic in firearms, ammunition, and explosives to profit from all types of criminal activities.

Unscrupulous property owners who hire arsonists to burn their buildings for insurance monies have also been identified for intense investigation. Federal arson statutes include severe penalties in cases where death or injury occurs as a result of these fires. ATF's enforcement efforts under these statutes will be paramount.

LE ALCOHOL PROGRAM

The alcohol industry provides a multi-billion dollar tax revenue source to Federal, State, and local governments. Because of the tremendous amount of funds generated by this industry, it has historically been susceptible to organized or white collar criminal activity. The Bureau's efforts are directed toward protecting this revenue source from individuals who have demonstrated a disregard for the law. Despite comprehensive efforts, a small number of criminals continue to infiltrate the industry and attempt to defraud the Government through the evasion of excise taxes.

ATF has conducted investigations during recent years which have disclosed illegal payoffs, kickbacks, commercial bribery, hidden ownership, and other violations of the Federal Alcohol Administration (FAA) Act and the Internal Revenue Code (IRC). Additionally, ATF has conducted investigations and assisted State agencies in investigations pertaining to the illegal production of alcohol or moonshine. This activity has subsided considerably due to economic factors and effective enforcement efforts. During fiscal year 1988, ATF initiated 22 alcohol-related cases, recommended 19 defendants for prosecution on alcohol-related violations, and seized 505 gallons of illegal liquor.

LE TOBACCO PROGRAM

Public Law 95-575 was enacted on November 2, 1978, to eliminate racketeering in the sale and distribution of cigarettes. The Advisory Commission on Intergovernmental Relations conducted a study in 1975 and another in 1984 into the contraband cigarette problem. The Commission concluded that since the enactment of Public Law 95-575, the tax loss has dropped from 10 percent to 5.4 percent of the total revenue due States from their cigarette taxes.

The majority of the 5.4 percent is from activities outside of the purview of the Contraband Cigarette Act. These include small bootlegging activities associated with military bases and Indian reservations.

ATF views contraband cigarette enforcement as primarily a State problem requiring a State solution. We see our role as coordinating intelligence collection and giving investigative assistance where the jurisdictional limits of a particular State have been exceeded, and to provide investigative training and laboratory support to State and local agencies as needed.

We support a complete transfer of the responsibility for enforcement of tobacco statutes from Federal to State and local authorities. In furtherance of our objectives in this program, we have initiated a program of collecting intelligence on contra-

band cigarette trafficking from source States, and then providing that intelligence to the affected State agencies for their enforcement efforts.

We have continued to conduct training in contraband cigarette enforcement for State and local officials. This training serves to enhance the abilities of the State to effectively address the contraband cigarette problem. ATF also assists States in an advisory capacity and makes ATF laboratory expertise in the detection of counterfeit tax indices available to them. Consequently, the States have developed enforcement capabilities to address the current problems, and responsibility for enforcement efforts will be transferred to the States during fiscal year 1989. However, ATF will continue to provide assistance to the States where Federal and State interests coincide.

LE FIREARMS PROGRAMS

In fiscal year 1988, greater emphasis has been placed on those persons and groups identified as being actively involved in drug trafficking and violent criminal activities. Included within this program are dangerous/special offenders, criminal trafficking, technical assistance, and the restoration of firearms privileges. In fiscal year 1988, ATF initiated 7,517 firearms-related investigations and recommended 4,877 defendants for prosecution.

DANGEROUS/SPECIAL OFFENDERS

The Comprehensive Crime Control Act of 1984 enacted firearms statutes, particularly 18 U.S.C. 924(c) and 924(e), which have been extremely effective. Incorporated into the Gun Control Act amended in 1986, these new statutes have been directed at apprehending organized crime figures, armed and major drug dealers and organizations, terrorists, members of violent extremist groups, violent criminal groups, and outlaw motorcycle gangs that illegally use or possess firearms. Several of these categories of offenders will be discussed more extensively under the Organized Crime Drug Enforcement Task Force (OCDETF) section.

ATF is also conducting criminal investigations of major violent organized crime gangs identified as the Crips and Bloods. These gangs were originally identified in California, but have since become major wholesale and retail distributors of narcotics on a national scope. ATF has completed several criminal cases on members of these gangs:

Washington, D.C. In September 1988, an investigation of the Crips was initiated because they were setting up narcotics distribution in the area. The investigation netted three arrests, several firearms, $81,000 in cash, and 26 pounds of cocaine.

ATF is continuing its ongoing investigations on the Crips and Bloods organizations, and more arrests are anticipated during fiscal year 1989.

ATF has also obtained several other notable convictions and sentences regarding the use of firearms in drug-trafficking crimes. The following demonstrate our accomplishments in this area:

Washington, D.C. On August 18, 1988, three defendants were sentenced to an additional 5 consecutive years for use of a firearm in a drug-trafficking crime. The investigation netted three firearms and $60,000 in crack cocaine.

Pensacola, Florida. On September 7, 1988, a defendant was sentenced to 10 years in prison for use of a machine-gun during a drug-trafficking crime. The subject was attempting to sell $18,000 worth of marijuana, while armed with a machine-gun and two handguns.

Seattle, Washington. On September 27, 1988, a defendant was sentenced to an additional 5 consecutive years for use of a firearm in a drug-trafficking crime. The subject was arrested while armed with two handguns for selling crack cocaine at a local high school.

CRIMINAL TRAFFICKING

Another major category of the Firearms Program concerns criminal trafficking in all types of firearms. This area can be summarized as the identification, investigation, and apprehension of individuals or groups who are substantial sources of firearms for the criminal element, and who demonstrate a flagrant disregard for the law. Included are those who illegally deal in stolen firearms, are involved with burglary and fencing operations, and illegally traffic, manufacture, or convert machineguns and silencers. The following are some of our accomplishments in this area:

Baton Rouge, Louisiana et al. In March 1988, an investigation was conducted of several individuals who were purchasing firearms using the strawman method. (The strawman method is a firearms transaction in which the purchaser of record is

merely being used to disguise the actual purchase by another person who is prohibited from receiving or possessing a firearm.) The investigation disclosed that a convicted felon who is an associate of a radical group, was soliciting subjects for these purchases. Agents have identified approximately 130 assorted handguns that had been obtained by the felon. As a result of this investigation, one subject was arrested while in possession of some of the firearms when he exited an Amtrak train in New York. The felon was supplying the firearms to drug traffickers and street gang members in the New York area. One handgun was recovered from a street gang member while he was selling crack cocaine. Another firearm was recovered from six Brooklyn gang members as they were attempting to establish a drug trade in Providence, Rhode Island. A third firearm was recovered during the execution of a search warrant on two major narcotics traffickers in Brooklyn, New York.

New York, et al. On April 15, 1988, a joint international heroin and firearms trafficking investigation was concluded with coordinated arrests of several Chinese organized crime members in New York; New Jersey; Washington, DC; and Hong Kong. Two of the subjects have been identified as the major suppliers of firearms to the Oriental crime community in New York. The investigation has identified hundreds of firearms purchased in Texas by suspected members of this organization. Undercover agents have made several purchases of machine-guns and other firearms from the subjects. During the arrests, 51 machine-guns, 1 silencer, and 2 handguns were recovered. Twenty-two pounds of heroin were recovered in New Jersey, and 130 pounds of heroin were recovered in Hong Kong. Eight subjects have pled guilty and are currently pending sentencing.

New Mexico, et al. In May 1988, an investigation was conducted regarding two brothers who were Federal firearms licensees. The investigation disclosed that the subjects were purchasing rifles at gun shows and converting them to machine-guns. The subjects were then trafficking the machine-guns in Arizona. The subjects were arrested while making a delivery of five machine-guns to undercover agents. Both subjects were armed with handguns at the time of their arrest. The subjects have pled guilty in Federal court and are currently pending sentencing.

TECHNICAL ASSISTANCE

Technical assistance involves testing and evaluating firearms, ammunition, and implements of war for proper classification under Federal law, and advising State, local, and other Federal agencies on the technical aspects of firearms. ATF also traces firearms to assist Federal, State, and local law enforcement authorities in their fight against crime and violence. In fiscal year 1988, ATF processed 34,686 requests for firearms traces from various law enforcement agencies. Of that total, approximately 80 percent of the traces were conducted on behalf of State and local law enforcement agencies, who used the trace results as investigative leads to help solve a variety of criminal violations. The following are some examples of our recent traces:

Williamsburg, Virginia. In January 1988, a bank was robbed, and a policeman was shot in a subsequent chase. A firearms trace was initiated on the firearm found at the scene. A purchaser was identified within 26 hours after the trace was initiated. The purchaser stated that the firearm had previously been stolen and identified a possible suspect in this theft. One week later, this suspect surrendered to local authorities after a 5-hour siege at a local motel.

Nashville, Tennessee. In April 1988, two prison inmates commandeered an ambulance inside the prison grounds and escaped briefly from the prison. The inmates used a .25-caliber handgun in the escape and held four hostages in the ambulance. The hostages were rescued and the inmates were captured. A trace was initiated on the recovered firearm, which resulted in identifying the purchaser, a prison nurse. The nurse admitted to selling the firearm to the inmate for $2,000. As a direct result of the trace, the nurse will be charged with criminal violations.

RESTORATION OF FIREARMS PRIVILEGES

This area of the Firearms Program involves investigating applications for the restoration of firearms privileges. During fiscal year 1988, ATF completed 884 investigations of these applications. Of those requiring a final decision by ATF, the Bureau restored firearms privileges to 279 qualified applicants and denied 182 applications.

INTERNATIONAL TRAFFIC-IN-ARMS

International Traffic-in-Arms (ITAR) involves the illicit movement of firearms into and out of the United States, which is a growing problem of worldwide concern.

The Bureau, in recognizing its responsibility, is dedicated to maintaining an aggressive commitment towards neutralizing the illicit movement of firearms. Firearms of U.S. origin are used in violent crimes throughout the world and are often found in the hands of terrorists and narcotics traffickers. Liaison with foreign governments proves useful to our enforcement efforts and provides us with valuable data relating to the movement of firearms in and out of the United States.

In fiscal year 1988, ATF participated in and conducted a seminar for the Department of State Anti-Terrorism Assistance Program in Kingston, Jamaica. Several other countries are expected to be scheduled for calendar year 1989.

In fiscal year 1988, ATF conducted major investigations directed towards the illegal exportation of AKS assault-type rifles from the Southwestern United States into Mexico. Typically, the strawman method is employed by the purchaser to cover the real identity of the person to receive the firearms. At the current time, ATF has identified over 100 subjects using this strawman method in regards to the purchase of approximately 2,265 AKS assault-type rifles. The subsequent investigations have revealed that the firearms are being illegally taken into Mexico. The following are examples of ITAR investigations:

California. One criminal investigation has identified a Federal firearms licensee, who was a relatively small volume dealer (50 firearms per year) and has sold 400 AKS rifles in 3 months. ATF has identified the two strawman purchasers of these firearms. Mexican authorities have already seized 164 of the rifles in Durango, Mexico.

San Francisco, California. In August 1988, an investigation was conducted regarding a Federal firearms licensee who was operating a smuggling operation to the Philippines. The smugglers shipped the firearms hidden with scuba equipment to the Philippines. The investigation disclosed the smuggling of approximately 1,000 firearms.

St. Paul, Minnesota. In February 1988, ATF initiated a criminal investigation in regards to the illegal importation of machine-guns and other weapons from Canada into the United States. The source of the illegal firearms has been identified as a Canadian firearms dealer who has purchased hundreds of unregistered machine-guns and other military weapons. Through this investigation, ATF has recovered dozens of illegal machine-guns from U.S. residents who had purchased the firearms from the Canadian. ATF is working closely with Canadian authorities to stop this illegal flow of machine-guns into the United States.

Tampa, Florida. In November 1987, ATF initiated an investigation in regards to several subjects purchasing handguns using the strawman method that were destined for Ontario, Canada. The firearms were being delivered to an extremist group called the Croatian National Resistance. Canadian authorities allege this group to be connected with past terrorist activities throughout Canada and Europe. As a result of ATF's investigation, Canadian authorities seized 37 handguns and 1,300 rounds of ammunition.

During fiscal year 1988, ATF has completed 258 criminal cases with 402 individuals involved in the illicit international trafficking in firearms.

ARMED CAREER CRIMINAL APPREHENSION PROGRAM

Law Enforcement's historical confrontation with armed criminals, accompanied by the growing volume of illicit narcotics trafficking in the United States, has markedly increased the frequency of encountering the violence-prone offender and armed career criminal. To assist law enforcement in the battle against the armed career criminal and those who use firearms in furtherance of their illicit narcotics trafficking, the Armed Career Criminal Act, the Comprehensive Crime Control Act of 1984, and amendments in 1986 to the Federal firearms laws were enacted.

The enactment of 18 U.S.C. 924(e) in 1984 as part of the Armed Career Criminal Act provided a penalty enhancement provision of the already existing statute 18 U.S.C. Appendix 1202(a)(I), possession of a firearm by a convicted felon. This section was later recertified under 18 U.S.C. 922(g). As originally passed, the statute provided for a mandatory enhanced penalty of at least 15 years in prison for those persons convicted of possessing a firearm after having been convicted of three robberies or burglaries. The statute also specifically excluded reduction of the sentence by suspension and the granting of probation or parole.

As part of the Comprehensive Crime Control Act of 1984, 18 U.S.C. 924(c) was amended to require a mandatory sentence for a person convicted of using or carrying a firearm during and in relation to a Federal crime of violence. The amended statute mandated a 5-year prison sentence for the first conviction and 10-year sentences for the second and subsequent convictions. Probation, suspended sentences,

concurrent sentences, and parole were all prohibited under the amended law. In 1988, Congress, recognizing the need for stronger firearms laws, amended 18 U.S.C. 924(c) and (e). These amendments mandated harsher sentences for those persons convicted of 924(c) violations and broadened the scope of 924(e) to include as a predicate offense any act of juvenile delinquency involving the use or carrying of a firearm, knife, or destructive device that would be punishable for a term exceeding 1 year if committed by an adult.

These sweeping amendments to the Federal firearms laws placed ATF at the forefront of the Nation's war against illicit narcotics trafficking. The Bureau took the initiative by establishing armed career criminal task forces in several target cities. The various investigative strategies utilized by these task forces were extremely effective in combating the armed narcotics trafficker and repeat offenders.

As a result of our success in using task forces, a national project named Achilles was instituted in fiscal year 1987. Project Achilles, so named because the illegal possession of a firearm frequently is the Achilles' heel of the violent career criminal, is directed at targeting, investigating, and prosecuting those individuals who qualify for mandatory and enhanced sentencing under 18 U.S.C. 924(c) and (e).

Currently, all of our 22 Law Enforcement districts across the United States are participating in Project Achilles. Several of our districts have established both formal and informal task forces consisting of local, State, and other Federal law enforcement agencies, which jointly conduct investigations involving those individuals who are identified as armed career criminals or use firearms while trafficking in illicit narcotics. Those districts that do not have the manpower to adequately maintain task forces have dedicated agents to target and investigate potential Project Achilles violators.

Project Achilles is an integral part of our Firearms Enforcement Program that has provided outstanding prosecutive results in the short while that it has been in existence. Over the last 3 years, we have completed criminal cases that have resulted in enhanced sentencing under 18 U.S.C. 924(e) for 146 defendants. During the same period, we have obtained mandatory sentencing under 18 U.S.C. 924(c) for 140 defendants. Sentences thus far have totaled 3,223 years. These revised statutes have provided us with the capability to significantly impact future violent crime.

While 18 U.S.C. 924(c) provides for mandatory sentences, the 924(e) statute provides for an enhanced sentencing of 15 years for any individual convicted three times of a violent felony or drug-trafficking crime and possession of a firearm. Prosecution of such a criminal under this section of law requires close coordination with State and local authorities. Each of our 22 district offices has initiated Armed Career Criminal Task Forces which target and prosecute this felony offender. The following are some examples of our accomplishments in this area:

Portland, Oregon. On April 18, 1988, an individual with multiple felony convictions for robbery and assault was sentenced to 15 years. This sentence was the result of the subject's kidnapping and robbing a female while armed with a handgun.

Boston, Massachusetts. On May 11, 1988, a defendant with over 50 felony convictions for armed robbery, assault, burglary, and narcotics crimes was sentenced to 15 years. This sentence was the result of the investigation of a home burglary and theft of 12 firearms.

Honolulu, Hawaii. On July 5, 1988, a defendant with over 100 arrests and several felony convictions for burglary and other violent crimes was sentenced to 15 years. This sentence was the result of the subject's purchasing a firearm which was later recovered at a shooting scene.

Waco, Texas. On October 25, 1988, a defendant with three felony burglary convictions and numerous arrests was sentenced to three concurrent 30-year sentences. These sentences were the result of the subject's possessing several firearms on two different occasions. Narcotics were also recovered from the subject.

Fort Lauderdale, Florida. On October 27, 1988, a defendant with 18 felony convictions (including robbery, manslaughter, and assault) was sentenced to 20 years. The subject, who had been recently released from prison, was arrested on two separate occasions while armed and in stolen vehicles.

Miami, Florida. On December 1, 1988, a defendant with 21 felony convictions was sentenced to 15 years. The subject had been caught trying to steal three firearms during a house burglary.

ATF's fiscal year 1988 convictions under 18 U.S.C. 924(c) were 119 defendants who received 645 years in prison and total convictions under 924(e) were 70 defendants who received 1,153 years in prison.

LE ASSISTANCE TO U.S. SECRET SERVICE AND STATE DEPARTMENT

During fiscal year 1988, ATF provided 51 staff years of assistance to the U.S. Secret Service and Department of State in their protection responsibilities during the 1988 Presidential Campaign and the United Nations General Assembly. The confidence other agencies have shown in our ability favorably reflects on the professionalism of our special agents.

LE EXPLOSIVES PROGRAM

During calendar year 1987, the latest year for which comprehensive information is available, there were 1,187 reported bombings or attempted bombings which caused 29 deaths, 182 injuries, and in excess of $8.5 million in property damage. In addition, more than 7.6 tons of explosives were reported stolen in 122 separate incidents. ATF's investigative efforts and those of other law enforcement agencies result in the recovery of considerable amounts of stolen explosives, and it is thought that a significant amount of these stolen explosives are diverted or repurchased for use in legitimate activities. Yet it cannot be denied that at any given time large quantities of stolen explosives exist in the underground marketplace readily available for criminal misuse.

ATF's posture in addressing its explosives enforcement mission is multifaceted and dynamic in nature. ATF seeks to reduce the number of criminal bombings through active prosecution, assistance to State and local agencies to interdict the illegal use of explosives, and to remove hazards posed to the public through improper storage or indiscriminate use of explosives. The following is a brief overview of ATF's explosive programs currently in affect and areas of immediate future commitments.

In fiscal year 1988, ATF recommended 777 defendants for prosecution for violations of Federal explosives and arson laws, of which 369 were explosives defendants and 408 arson defendants. The explosives cases which follow show significant results achieved by ATF in this area.

Fort Worth, Texas. On April 7, 1988, a man who was allegedly involved in narcotics trafficking was killed when a bomb detonated in his rental car. The victim was a 26-year-old resident alien from Colombia who was on probation for murder. The investigation revealed that a 3" by 7" pipe bomb with a remote control triggering mechanism was used. One week later, three suspects were indicted. Two of the defendants subsequently pled guilty and testified against the third defendant.

Marathon, Florida. On September 18, 1988, Florida marine patrol officers stopped a suspiciously acting 16-foot vessel in the shallow water. The officers boarded the boat and discovered two firearms, a Ruger Mini-14 and a shotgun. Further search revealed 10 16-ounce cans of black powder that were taped together and hidden in a gym bag. Five electric blasting caps and 10 blasting core boosters of military origin were also found. The identifying covers on the boosters had been removed. Both subjects were arrested and the case was subsequently referred to ATF. Further examination revealed an elaborate triggering mechanism that converted the boat into a remote control bomb intended to detonate on impact. The target remains unknown. Both suspects appeared before a magistrate on September 19, 1988. An ATF complaint charged them with 26 U.S.C. 5861(d), possession of a destructive device, and 18 U.S.C. 924(c), carrying a firearm during and in relation to a Federal crime of violence.

ATF's timely, effective, and professional reaction to explosives investigations is the result of indepth training of its agents and innovative programs established to support and enhance field agents' capabilities. Among these are:

The Explosives Incident System (EXIS). The EXIS program maintains all pertinent information on every ATF bombing investigation and is capable of querying this information relative to trends, patterns, targets, components, and modus operandi. All information available through EXIS is routinely forwarded to the U.S. Secret Service, Federal Bureau of Investigation's Domestic Security and Terrorism Section, and U.S. military investigative agencies.

National Response Teams (NRT). Four NRT's are strategically located throughout the country and are capable of mobilizing a team of specialized investigators to the site of a major explosives/arson incident within twenty-four hours to conduct searches and follow-up investigations.

Each year, a number of ATF special agents are selected to undergo training in post-blast investigation, explosives handling and destruction, or explosives training instruction.

STATE/LOCAL EXPLOSIVES TRAINING

As part of ATF's commitment to assisting State and local law enforcement, the Advanced Explosives Investigative Techniques Course (AEITC) presented at Glynco, Georgia, was initiated in 1982. Through fiscal year 1988, 649 State and local officers have attended this program of instruction. The course, originally developed in conjunction with the International Association of Bomb Technicians and Investigators (IABTI), is considered state-of-the-art in post-blast investigation and possesses an enviable reputation among all those who have attended.

PUBLIC SAFETY OF EXPLOSIVES

The explosives used in M-80 and M-100-type devices are highly sensitive. When considering the quantities of powder used in the manufacturing process and the usual lack of quality control and safety precautions, the potential for disaster is enormous. ATF approaches the threat posed by the illegal and/or unsafe use of explosives in two ways: first, through the interdiction/disruption of the illegal and/or unsafe practices; and second, through the education of the public on the hazards presented by explosives.

During fiscal year 1988, ATF was actively involved in the investigation of illegal fireworks manufacturers, transporters, and distributors (M-80 Project) ATF district offices are presently analyzing all available data to more effectively interdict illegal fireworks manufacturers, distributors, and the illegal sources of raw materials used in the manufacture of these devices. Additionally, during fiscal year 1988, efforts continued through the Chief, Public Affairs, local law enforcement authorities, and the media to increase public awareness of the threat posed by illegal fireworks and to develop an appreciation of their potential danger.

INITIATIVES TO COMBAT TERRORISM

To address the increased threat posed by terrorism, ATF continued to develop its International Explosive Incident System (I-EXIS) program during fiscal year 1988. I-EXIS was conceived by ATF during fiscal year 1986 as a separate program containing information on foreign explosive incidents allowing the comparison of those incidents not only among each other but also among domestic incidents.

In 1987, ATE established liaison with Bomb Data Centers in Canada, Germany, Australia, and Israel, and is currently receiving technical information on explosives incidents from these countries. ATE also initiated the development of a format to be used by Interpol member nations in reporting foreign explosives incidents.

In November 1988, ATE obtained a comprehensive computer software package for I-EXIS and initiated data base entry. Refinements to this program have already been identified and these, along with enhanced EXIS capabilities, will be undertaken during fiscal year 1989.

ARSON PROFILING

ATF is continuing its participation in a new phase of investigation through the profiling of arson and bombing suspects. In October 1987, a special agent assigned to the Arson Enforcement Branch completed a ten month fellowship program sponsored by the Behavioral Science Unit of the FBI in Quantico, Virginia. Because of ATF's leadership in the area of arson and explosives investigation, the Bureau was invited to participate in this relatively new area of profiling.

ATF, in conjunction with the FBI, is continuing a research project than involves interviewing convicted and incarcerated arsonists and bombers throughout the United States. Currently, 15 States have allowed inmates to be interviewed to assist in this project. Those convicted individuals who agreed to participate have proven valuable in preparing personality assessments as well. All arson cases currently being submitted to the FBI's Behavioral Science Unit for profiling are being completed by ATF.

Plans are also underway for interviewing those persons convicted of bombing and arson incidents directed against abortion-related facilities. This study will center on such areas as motivation, target selection, and background of those convicted.

ARSON ENFORCEMENT

While arson is basically a State and local enforcement responsibility, the national magnitude of the problem exceeds the capabilities of any one agency to effectively respond to the full range of arson crimes occurring within its jurisdictional area. ATF led the drive to coordinate enforcement efforts among Federal, State, and local

sectors. In fiscal year 1988, ATF continued to enhance its close liaison with Federal, State, and local law enforcement agencies committed to the fight against arson by responding to 519 incidents nationwide that resulted in 55 fatalities, and 182 injured persons. ATF also saved over $27.8 million in fraudulent insurance claims not paid during fiscal year 1988.

ATF focuses on selective enforcement by actively investigating only a small percentage of the total arsons committed throughout the country. Investigative criteria include: (1) the burned structure must affect interstate commerce in some way; thus ATF resources are directed toward complex arson-for-profit cases involving industrial or commercial property, and (2) the complexity of this financially motivated crime sometimes unravels a series of other major felony crimes which may at times reach beyond interstate and international boundaries. ATF is confident that the direction of our investigative activity, along with our assistance to State and local authorities, is compatible with the overall Federal role required to combat the crime of arson.

In addition to the apprehension and prosecution of perpetrators, ATF utilizes a procedure to capture the "insurance dollars saved" through arson investigative efforts. During fiscal year 1988, $27.8 million were "saved" in the sense that in the absence of effective law enforcement efforts, the insurance industry could potentially have paid $27.8 million more in arson related crimes, thus creating a greater burden upon the premium paying public and the Nation's economy as a whole. It should further be noted that many of these respective dollar amounts may increase as the ongoing investigations are completed. Since 1979, these savings amounted to approximately $353 million.

In fiscal year 1988, ATF continued its assistance to State and local authorities through the services of the four National Response Teams (NRT) located in the Midwest, Northeast, Southeast, and Western regions of the United States. Since their inception in 1979, these teams have responded to 194 incidents throughout the Nation, 119 of which involved the crime of arson. These teams have a 91 percent rate of determination as to the cause of the incident.

The arson task force concept continues to be one of ATF's most successful strategies in combating this most difficult crime. Task forces in Seattle, San Francisco, Los Angeles, Houston, Chicago, Boston, New Orleans, Nell York, Philadelphia, Pittsburgh, Kansas City, Detroit, Newark, Dallas, and St. Paul, are fully operational with the pooling of talent and resources among Federal, State, and local agencies. New Orleans is a new task force city addition for fiscal year 1989 while two cities, Atlanta and St. Louis, were removed. This is in keeping with our objective to continually review these cities for changing patterns and needs in order to better utilize our overall resources. The implementation of such a concept, which utilizes maximum efficiency through the varied investigative skills of interagency cooperation, has proven vital in the swift identification and prosecution of those responsible for perpetrating the crime of arson.

The Bureau continually strives to perfect this effort by offering creative and innovative training programs, as well as contributing educational support toward multiagency cross-training modules. In October 1982, ATF initiated a 2-week State and local training course in Advanced Arson-for-Profit investigations. This unique state-of-the-art training, unavailable anywhere else, deals with indepth investigations into arson-for-profit cases beyond the cause and origin determination. To date, over 690 State and local police and fire service personnel have attended this highly acclaimed course. This training is in such demand that it is now a permanent part of ATF's arson enforcement program.

In response to repeated requests from State and local arson investigators, ATF, in conjunction with the Department of Justice's Bureau of Justice Assistance, initiated a series of seminars directed toward educating prosecutors at both the State and Federal levels on the crime of arson. These seminars acquaint the prosecutor with the cause and origin determination of a fire as well as the legal considerations necessary for a successful prosecution of an investigation based primarily on circumstantial evidence.

During fiscal year 1988, a total of 78 prosecutors attended the three seminars offered. Although the Bureau of Justice Assistance was unable to renew the grant that was used to initiate this program, the Office of State and Local Training at the Federal Law Enforcement Training Center, Glynco, Georgia, has agreed to incorporate the school in its overall training program. One school is scheduled for fiscal year 1989. To date, a total of 166 prosecutors have received this training.

Also during fiscal year 1988, ATF's Arson Enforcement Branch offered a seminar to insurance claims supervisory personnel currently affiliated with nationally known insurance companies. This seminar is to familiarize the insurance industry

with ATF's arson task force policy and the significance of our continued liaison with Federal, State, and local law enforcement agencies. The seminar trained 34 attendees. There are two seminars scheduled for fiscal year 1989. Since the inception of this program in fiscal year 1986, a total of 106 individuals have received this training.

In late fiscal year 1988, 19 special agents completed the first 2-year program in cause and origin of a fire determinations offered and administered by ATF for our agents. These agents will now assist their respective districts in cause and origin determinations relative to arsons, and, in addition, will assist State and local personnel in this same area. A second group of agents will commence the 2-year program in fiscal year 1989.

The following is a sampling of ATF's work in the area of arson investigation and enforcement cases.

Fort Worth, Texas. On November 3, 1987, an arson fire caused $500,000 damage to the Ocean Club nightclub. Investigation by ATF and the Fort Worth Fire Department revealed the fire had been intentionally set using diesel fuel and kerosene. The business was found to be in poor financial condition. Bad checks were being written to vendors and employees and the club was $2,000 past due on its utilities. The club was facing the suspension of its liquor license and substantial fines for violating State liquor laws. The club was also in danger of losing its dance license due to various violations of city ordinances. Attempts made to sell the business had been unsuccessful. On the night of the fire, witnesses placed two of the owners at the club after closing time and just minutes before the fire was discovered. The two owners were charged in U.S. district court with Federal arson, conspiracy, and mail fraud counts. On August 22, 1988, the two suspects were found guilty on all counts. On October 28, 1988, both defendants were sentenced to 2½ years in prison.

Jefferson, New Hampshire. Beginning in May 1988, the town of Jefferson was plagued by a series of fires. A total of 26 arson fires occurred causing approximately $1 million in damage. The arsons were directed at barns, summer homes, a restaurant, a motel and occupied houses. A task force consisting of ATF and the New Hampshire State Police was established to investigate. The fires had created an atmosphere of fear and suspicion in the community and households remained awake in the night to guard against becoming a victim of the arsonist. An intense investigation was conducted which eventually centered on a former volunteer fireman. This suspect had reported a fire at his brother's residence in August 1988, and was attempting to extinguish it when fire fighters arrived. An arson profile was prepared by an ATF agent working in conjunction with the Behavioral Science Unit at Quantico, Virginia. The profile of the arsonist fit the suspect to a "T". The suspect failed a polygraph examination and admitted to a local police officer that he might be responsible for setting the fires. Search warrants executed on the suspect's residence and automobile yielded evidence incriminating him in the arsons. Finally, the suspect confessed to setting 16 of the fires. On October 12, 1988, he was arrested by ATF and the State police and charged with State arson charges. On November 3, 1988, the defendant was indicted by a State grand jury on 14 counts of arson and 2 counts of attempted arson. Arraignment was set for December 6, 1988.

Garland, Texas. On October 8, 1987, a fire completely destroyed the 210,000 square foot Service Merchandise Company warehouse in Garland, Texas. The loss was in excess of $50 million, and three firefighters were injured battling the blaze. A joint investigation was conducted by ATF and the Garland Fire Department. Arson was suspected and suspicion centered on a security guard at the warehouse. Investigations revealed the guard had intentionally set the fire to create some excitement. The suspect guard had borrowed a lighter from another guard to set the fire which quickly overcame the sprinkler system and destroyed the 210,000 square foot warehouse. The guard was arrested at the scene only to be released from jail a short time later. Indepth interviews were conducted with each prisoner that had been incarcerated with the suspect. A witness was found who had conversed with the suspect and would testify as to several incriminating statements made by the suspect that implicated him as the arsonist. On September 16, 1988, the suspect pled guilty to State arson charges and was subsequently sentenced to 5 years in prison.

ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE (OCDETF)

ATF efforts during fiscal year 1989 and fiscal year 1990 will continue to be directed against violations of the Federal firearms and explosives laws committed by organized criminal groups, whose principal income is derived from trafficking in illegal drugs. With the recent passage of the Anti-Drug Abuse Act, OCDETF resources will be transferred in fiscal year 1990 to a separate appropriation under the Department

of Justice. Although policy guidance will be provided by Justice, ATF will actively participate in OCDETF on a reimbursable basis during fiscal year 1990.

The following cases exemplify some of the significant results achieved by the Bureau's OCDETF participation during fiscal years 1988 and 1989:

Landover, Maryland. On January 22, 1988, the Prince George's County Police Department discovered five individuals fatally wounded by gunshots to the head. Due to the apparent involvement of Jamaican posses, the police requested ATF assistance. ATF was able to identify three of the victims. Subsequently, it was determined that three other Jamaican males, identified only by nicknames, had been seen in the apartment shortly before the shootings. ATF was able to determine their identities and, as a result, the Prince George's County Police obtained murder warrants and arrested them.

Shelby County, Tennessee. On March 11, 1988, ATF assisted 140 other Federal, State, and local law enforcement officers in the execution of 9 Federal search warrants and 15 Federal arrest warrants. This effort, known as Operation Bravo, targeted the upper echelon members of the Bovan Cocaine Distribution Organization, the largest and most dangerous narcotics ring in the Mid-South area. At least three homicides and several serious assaults have been attributed to members of this organization. Seized pursuant to the warrants were $98,000 in cash; 30 vehicles valued in excess of $600,000; 15 firearms, including 1 machine pistol; a large quantity of expensive jewelry; and various amounts of cocaine, marijuana, and drug paraphernalia. In addition, 10 persons were arrested. Previously in related matters, ATF assisted in the arrest of 67 narcotic dealers on felony charges, and the seizure of 85.3 grams of crack cocaine; 123.86 pounds of cocaine; 5 pounds of marijuana; 166 "hits" of LSD; $595,839 in cash; 41 vehicles; and 1 large boat.

South Florida, North Georgia. On March 15, 1988, as a result of an ATF sponsored OCDETF investigation into the Mann Organization, 20 subjects were indicted by a Federal grand jury. The organization was using firearms to protect their narcotics operation. The indictment alleged that from December 1986 to March 1988 the organization distributed at least 100 kilograms of cocaine. During the course of this investigation, 33 vehicles, 16 firearms, 2 residences, $190,000 in cash, and $150,000 in jewelry were seized.

Southern Oregon, Northern California. On April 12, 1988, ATF, assisted by State and local officers, executed Federal arrest warrants on seven members of the Nugget Outlaw Motorcycle Gang for violations of Federal drug and firearms laws. Seized pursuant to the warrants were 47 firearms (including a short-barreled Uzi), a quantity of methamphetamines, and records/receipts relating to a lab operation. The investigation had been initiated after gang members were observed digging up buried methamphetamines, chemicals, and equipment used to manufacture illegal drugs. In addition to the buried lab, 74 firearms, including two unregistered NFA weapons, were recovered during the investigation.

Miami, Florida, et al. On October 13–14, 1988, after 6 months of preparation, ATF coordinated the execution of Operation Rumpunch II, a national roundup of Jamaican posse members. Over 1,500 Federal, State, and local law enforcement officers in 20 States and the District of Columbia executed 75 search warrants and attempted to arrest 435 Jamaican posse members. The operation itself centered around an indictment in Miami, Florida, charging the controlling members of the Shower Posse with racketeering in connection with ongoing Continuing Criminal Enterprises (CCE) violations. The Shower Posse is the oldest, largest, and most violent of the posses. As a result of the operation, 304 members were arrested, 70 percent of whom were illegal aliens of Jamaican descent. In addition, 90 firearms, 133 ounces of cocaine, 2,000 vials/rocks of crack cocaine, 31 pounds of marijuana, and over $216,000 in U.S. currency were seized.

Since the conclusion of Rumpunch II, approximately 20 additional posse members have been arrested. The CCE indictment and subsequent prosecution is expected to have a lasting effect on the operation of the Shower Posse. This was the first CCE indictment of a posse's leadership whose key members will face not only significant incarceration periods, but also major fines. The posse members will also be subject to the seizure of assets accumulated through their narcotics operations.

ATF has been involved in the investigation of a number of organized crime gangs. One of the most notable concerns is our national effort aimed at the Jamaican posses. The posse members' propensity for violence, as documented in over 1,500 narcotics-related homicides, and their proclivity towards firearms have made them vulnerable to those statutes enforced by ATF. In January 1987, ATF initiated a national program with other Federal, State, and local law enforcement agencies to identify posse members and uncover their illegal narcotics organizations. Through fiscal years 1987 and 1988, ATF has initiated 529 investigations directed towards

posse members and associates. As a result of these investigations, 257 criminal cases charging 458 defendants with various firearms violations have been recommended to the appropriate U.S. attorneys for prosecution, and 723 firearms have been seized.

EQUAL OPPORTUNITY

Finally, but by no means least important, are the equal opportunity activities of the Bureau. Equal opportunity responsibilities are included in performance standards for all Bureau executives and managers who are responsible for implementation of the Bureau's affirmative action plan. Equal opportunity continues to be an integral part of the Bureau's mission as evidenced by the noteworthy accomplishments in several program areas.

AFFIRMATIVE ACTION

The Office of Equal Opportunity prepared the Multi-Year Affirmative Employment Plan (AEP) which was approved by the Equal Employment Opportunity Commission (EEOC). Further, EEOC's review of the work force section indicated that the Bureau had conducted an accurate and thorough work force analysis. Through enhanced recruitment efforts, the representation of women and minority Special Agents in Law Enforcement has increased from 12 percent to 20 percent. Compliance Operations very actively seeks to hire inspectors and auditors who are women or minorities. In the year ending June 1988, 55 percent of all inspectors and auditors hired were in these categories. At the present time, 45 percent of inspectors and auditors are women and minorities.

The Bureau encourages employee participation in Special Emphasis Programs and observances which are designed to educate and re-educate individuals working in a diversified multi-cultural environment.

COMPLAINTS PROCESSING

The Office of Equal Opportunity works jointly with management officials to process and settle complaints at the lowest level. Ten formal EEO complaints were filed last year which is less than one third of 1 percent of the total work force.

We continue to have a strong belief in the Bureau's Equal Opportunity Program and anticipate full commitment to the program in fiscal year 1990 and future years. We have clearly communicated to all our managers our belief in the principles of Equal Opportunity.

Biographical Sketch

DANIEL MARTIN HARTNETT

Daniel Martin Hartnett was confirmed on January 29, 1989, to a dual appointment as the Deputy Director of the Bureau of Alcohol, Tobacco and Firearms and as the Associate Director (Law Enforcement).

Mr. Hartnett was born on September 26, 1940, in Evanston, Illinois, the son of George F. and Lila L. Hartnett. He attended Chicago City College and DePaul University. He has also attended executive development courses at the Federal Executive Institute and George Washington University, as well as attending Harvard University's JFK School of Government.

Mr. Hartnett joined ATF as a special agent in the Bureau's Chicago office in 1969, after having served 8 years with the Chicago Police Department. Subsequent ATF assignments included: Resident Agent in Charge in Milwaukee, Wisconsin; Southeast Coordinator and Operations Officer in Washington, DC; Assistant Special Agent in Charge in Nashville, Tennessee; Special Agent in Charge in Boston, Massachusetts; and Chief of the Explosives Division at Bureau Headquarters in Washington, DC.

Prior to his current assignment, he was Deputy Associate Director (Law Enforcement) at Bureau Headquarters where he exercised managerial direction and control over the personnel and operations of the Law Enforcement activities throughout the Bureau.

Mr. Hartnett is a member of the International Association of Chiefs of Police Committee on Terrorism and is Chairman of the International Association of Chiefs of Police Arson, Firearms, and Explosives Committee.

He married the former Judith Porter in 1964. They have three daughters and reside in Vienna, Virginia.

PROPOSED FIREARMS LEGISLATION

Senator DECONCINI. About the firearms ban that is kind of sweeping the country now, did you testify before the Judiciary Committee regarding the Metzenbaum bill?

Mr. HIGGINS. Mr. Dan Conroy, our Deputy Associate Director for Law Enforcement is not here today. He is our person who testified.

Senator DECONCINI. Did you support the Metzenbaum bill?

Mr. HIGGINS. We basically went in to comment from a technical standpoint in terms of how the bill would work or not work, without giving any position as such.

Senator DECONCINI. That is because the administration has not taken a position?

Mr. HIGGINS. Yes, sir.

COOPERATION WITH MEXICO

Senator DECONCINI. Let me just ask you a couple of questions on dealing with Mexico, Mr. Higgins, if we can be of any help. Last year we discussed cooperation by Mexican officials in the identification of firearms used in criminal activities. I remember ATF saying that the cooperation on the part of the government of Mexico in identifying serial numbers was not very good.

Has this cooperation improved at all? Did you have anything to do with the big hit that they recently made in Mexico of a labor leader, I think in Monterrey or someplace in that vicinity?

Mr. HIGGINS. In terms of how we are working with Mexico, it is a little too early in Salinas' administration to tell. He has not been in office very long. After we talked with you last year, we had additional contacts with Mexico and additional offers to trace firearms. I will be candid with you, Mr. Chairman, we have not received, other than the one time, a substantial number of guns for tracing. So, we are just not getting the information; however, we are not giving up on it.

Senator DECONCINI. Do you have direct contact with the Mexican Government?

Mr. HIGGINS. We have contact through the Embassy. We usually have been, to this point, using DEA. But we have sent our people there to work with the DEA people.

Senator DECONCINI. Are you dealing with the Attorney General's office primarily?

Mr. HARTNETT. Yes, and DEA. We did request the serial numbers on those weapons, by the way.

Senator DECONCINI. And you have not been able to get them?

Mr. HARTNETT. No.

Senator DECONCINI. What is the answer? Why?

Mr. HARTNETT. Just a reluctance by Mexico to give them to us.

Senator DECONCINI. You do not have an agent in the Embassy or anybody in Mexico at all?

Mr. HIGGINS. No; we do not.

Senator DECONCINI. So, you have had no contact directly from the Attorney General, Mr. Del Castillo——

Mr. HARTNETT. No, sir; other than through the Embassy.

Senator DECONCINI. Are you restricted to going to them?

Mr. HIGGINS. No; but we would not want to bypass the Embassy.

Senator DECONCINI. You could go make an approach to the Attorney General if you wanted to?

Mr. HIGGINS. Yes, sir.

Senator DECONCINI. Is there any reason for you to not do that?

Mr. HARTNETT. We would like to coordinate our efforts with other Federal agencies. I would guess that within the next few months we will do that.

SOUTHWEST INVESTIGATIONS

Senator DECONCINI. Has your agency carried out any firearms investigations in the Southwest during the past year where Mexican Government, military, and law enforcement officials were illegally involved?

Mr. HARTNETT. We have had about five investigations where we have had that occur.

Senator DECONCINI. In the Southwest?

Mr. HARTNETT. Yes, sir.

Senator DECONCINI. And there were Mexican officials involved?

Mr. HARTNETT. Yes, sir; at various levels.

Senator DECONCINI. Pardon?

Mr. HARTNETT. Yes; at various levels, police or other government officials.

Senator DECONCINI. Are those pending cases now?

Mr. HARTNETT. Yes; all five cases are being prosecuted on this side of the border, not sent back to Mexico.

VIOLENT GANGS

Senator DECONCINI. We have an increasing concern in Arizona over the gang problem. This is something new for us, we feel like the poor people in Los Angeles, who may never see the end of the gang wars or the crack houses. I know your agency is involved in some of the task force efforts. Can you tell me about the gang situation in Phoenix, if you know anything about it? Is there a real serious problem there? Are you involved in it as far as prevention or attempting to investigate it at all?

Mr. HIGGINS. Yes; we are. Dan will give you an overview of where we stand at this point.

Mr. HARTNETT. I am sorry to say that the Crips and Bloods are now in Phoenix.

Senator DECONCINI. Are you able to identify those gangs in particular?

Mr. HARTNETT. Yes, sir.

Senator DECONCINI. How do you do that, by individuals you know or by the way they operate?

Mr. HARTNETT. Very frankly, they wear colors which identify their gang.

Senator DECONCINI. I see, they are not hesitant at all.

Mr. HARTNETT. Not at all. They come from the various segments of Los Angeles, usually inner city neighborhoods, and belong to different groups within the same organization. There are not a large number of gang members there; but, they are in Phoenix. There are other gangs in Phoenix, too. And we are part of a task force in Phoenix that is working on all gang-related cases.

Senator DECONCINI. That just started, the task force, is that correct?

Mr. HARTNETT. Yes, sir.

Senator DECONCINI. It began 3 or 4 months ago, or something like that?

Mr. HARTNETT. That is correct.

Senator DECONCINI. How many people do you have assigned to that task force?

Mr. HARTNETT. I could not tell you exactly how many right now because the task force has just started up. But we have committed manpower, as have the other agencies.

Senator DECONCINI. Do you think this is a movement east? Do you anticipate them to be in Albuquerque or El Paso, or do you know if they are already there?

Mr. HARTNETT. They are in New Mexico, too.

Senator DECONCINI. They are?

Mr. HARTNETT. Yes, they are. And they are moving across the country. We have identified Crips and Bloods in 14 cities throughout the country.

Senator DECONCINI. Does anybody have an estimate of how many members there are in the Bloods or Crips?

Mr. HARTNETT. I have heard there are at least 40,000 members and probably more.

Senator DECONCINI. 40,000 in these gangs, organized gangs?

Mr. HARTNETT. Coming out of the Los Angeles area.

Senator DECONCINI. Coming just out of Los Angeles?

Mr. HARTNETT. Yes, sir.

Senator MIKULSKI. Would the Chairman yield?

Senator DECONCINI. Certainly.

VIOLENT GANGS EXPANSION

Senator MIKULSKI. Mr. Hartnett, are they over here on the east coast, particularly down where we are?

Mr. HARTNETT. They are in both Maryland and Virginia, but they are primarily in Maryland.

Senator MIKULSKI. The District of Columbia?

Mr. HARTNETT. Two investigations that we have been involved in resulted in seizures of narcotics and weapons. One was in Virginia and one, involving a crack house, was in Maryland.

Senator MIKULSKI. I am going to come back to the crack houses.

Mr. HIGGINS. Let me make two points about these gangs. One reason we are not anxious to say people are Crips and Bloods is that some of them claim to be gang members when they are not. They believe that gives them some protection or they feel that it increases their importance.

The second thing is that we have had a number of agents from a major number of our districts go to Los Angeles and work the streets with local police on Crips and Bloods. They become familiar with both how that movement has grown and with the names and sources. And then those agents are going back to 14 cities where they will be part of Crips and Bloods task forces.

Senator DECONCINI. Do they have a mode of operation or do they just stumble into a city because, for example, they happen to be

visiting? Do we know? Do we know much about them? Do they have a major organization, do they lay out a strategy and decide: Well, we are going to go to Baltimore now because we think it is a lucrative market?

Mr. HARTNETT. They have the cash flow from the narcotics in Los Angeles so they can move to any part of the country. And these different groups within the Crips and within the Bloods will go and try to establish turf in various cities.

Senator DECONCINI. And they move there primarily to control the drug traffic and to expand it? Is that really what they are doing?

Mr. HARTNETT. Yes, sir.

JAMAICAN POSSES

Senator DECONCINI. What about the Jamaican Posses? They are considered part of these gangs, too. Last year you went into some great detail about it. What is the current assessment of their threat?

Mr. HIGGINS. On the Jamaican Posses, we were privileged to have Senator Mikulski come and address a Jamaican conference we had in Baltimore last year in which we had over 600 State, Federal, and local officers involved with those gangs come and share information and contacts. We think that was very productive.

Our intelligence estimates now are that the Jamaicans are in a minimum of 40 cities. In fact we have formal task forces with State and local and other Federal agencies on Jamaicans in 40 cities throughout the country. The disturbing part is they have moved from some of the bigger cities. As you know, they spread up the east coast and then went across to Kansas City and on to the west coast. But now they are into cities that are the next tier down, such as Tallahassee or Orlando.

Senator DECONCINI. Last year, I think, the figure was 300 deaths that were attributed to them?

Mr. HIGGINS. Yes, sir.

Senator DECONCINI. Maybe that was the total, if my recollection is correct.

Mr. HIGGINS. I think you are right.

Senator DECONCINI. No; that was in 1987. Do you know what it is in 1988?

Mr. HIGGINS. I think it almost doubled in 1988 over the previous 2 years together.

Senator DECONCINI. Do you have an estimate for 1988?

Mr. HARTNETT. I think it is just a little over 1,500.

Senator DECONCINI. 1,500?

Mr. HARTNETT. Yes, sir.

Senator DECONCINI. So it is obviously dramatically worse.

Mr. HIGGINS. Yes.

Senator DECONCINI. Now, is your program still directed toward the Jamaican gangs, the one that you showed us last year?

Mr. HIGGINS. Yes; in October 1988, we arrested over 300 people. And that operation involved almost 1,000 Federal, State, and local officers.

Senator DECONCINI. Do you have any breakdown in those cases of how many are so-called innocent victims or just, you know, passers-by?

Mr. HIGGINS. In the homicides?

Senator DECONCINI. Yes; as opposed to rival gangs. Do you keep any of that, or is that just too——

Mr. HIGGINS. Of the homicides attributed to them, I would guess 90 percent or more are not innocent.

ANTI-DRUG ABUSE ACT OF 1988

Senator DECONCINI. I want to go to a few budget questions.

Have you received any additional FTE's in your 1990 request to carry out your armed career criminal activities, with this $7 million that you have received, in the drug bill?

Mr. HIGGINS. Our appropriation for fiscal year 1989 included $7 million additional resources from the drug bill but did not increase our staffing ceiling.

Senator DECONCINI. You did not hire anybody on that?

Mr. HIGGINS. We are continuing to hire to meet our ceiling.

For fiscal year 1990, we will essentially maintain the same level of effort in the law enforcement area as appropriated for fiscal year 1989 including additional funds received in the drug bill.

Senator DECONCINI. How many additional FTE's do you need to effectively carry out the directive in the drug bill?

Mr. HIGGINS. The drug bill appropriated $7 million for fiscal year 1989 which we estimate will allow us to fund 150 FTE's within our existing ceiling.

Senator DECONCINI. The Senator from New Mexico, do you have an opening statement?

Senator DOMENICI. No, Mr. Chairman.

I was trying to see if we are going to have a budget summit or not, so I——

Senator MIKULSKI. Well, what do you know?

Senator DOMENICI. I could have been here with you all.

Later on I will submit some questions for the record. Thank you very much.

Senator DECONCINI. The Senator from Maryland.

Senator MIKULSKI. Thank you very much, Mr. Chairman.

I really did enjoy my meeting with your agents that day, not so much what I had to say but what they said to me informally as we had coffee and so on together. Just know that I am absolutely on your side.

I want to come back to the personnel issues that we raised with the Director of the Secret Service. But first the Jamaican Posses and of course what we are doing. Last year Congressman Hoyer and I worked with you to bring 25 new agents into this battleground, this drug Beirut called the District of Columbia.

I wonder, first of all, are they still here? How are they doing? Montgomery County, if you have had a chance to read in today's paper, is fighting a crack war. Could you fill me in on that?

Mr. HIGGINS. Senator, we have some programs going on. I think it would probably be better to discuss it with you and the staff rather than here.

CRACK HOUSES

Senator MIKULSKI. Well, I am very much interested in this metropolitan area, but then how we could do this for the rest of the country.

I would like to now put on my hat as the chairperson of the Subcommittee on Housing. I have under my jurisdiction Secretary Kemp's activity. This topic goes to how we should encourage public policy to crack down on the crack houses in Government-owned or Government-subsidized property. Is it your observation that the poor are being doubly exploited? See, I am worried about crack in public housing. I am worried about crack in section 8. I had Sid Kramer, County Executive of Montgomery County, one of our highest income areas, tell me that section 8, a program to help some poor people in Montgomery County, they have got crack houses.

My question to you is, when we work with Secretary Kemp, is this a problem? We hear, and again this is street talk, that is why I want to talk to you, that the felons, the punks, the drug dealers come in and they say to a welfare mother: We are just going to take over your apartment. She does not want to get involved in this. But they use her place. She gets the cash. And that buys the shoes, the whatever, all these other things. It is just spreading like a virus, like an epidemic, like an infection, like a plague. And we are contributing to it.

Should we throw them out. Could you tell me what the status is in Government-owned property, what do you think we ought to suggest to the Secretary?

Mr. HIGGINS. We know that what you have described is happening. And even if the mother or other person that resides there does not want the money, the intimidation and the fear factors are so high that these individuals tend to accept money from crack dealers.

Senator MIKULSKI. There are some pretty fierce-looking fellows in that video.

Mr. HIGGINS. I do not have the data which shows how often that happens. But we know it does happen.

PUBLIC HOUSING SAFETY

Senator MIKULSKI. One of the suggestions is that you throw people out of public housing who interact with the drug dealers along these lines. Would you think that is a good idea?

Mr. HIGGINS. I know the marshals have enough trouble evicting people because of nonpayment problems. If somebody is an innocent individual, that may not be a good idea.

Senator MIKULSKI. Am I making you uncomfortable by asking you these questions?

Mr. HIGGINS. Well, no; I am just answering as an individual since housing is not my area.

Senator MIKULSKI. In other words, you and your agents going into a public housing project is a very fiercesome kind of thing, as well as the agents who have to enforce the law, the local enforcement, the social workers who have to. And I was a social worker, as you know, sir, and I would not go into the same public housing projects that I was not afraid to walk in 10 years ago, to reach out

my hand to help somebody. Now I would be afraid what would happen to me in those elevators, and so on. And then my heart goes out to the elderly that live there, the handicapped that live there, the welfare mother that might get money to try to make something of herself, with the welfare reform bill. So, we have everybody concentrated in 14 floors.

Mr. HIGGINS. Our agents go in there armed. So, I can imagine what is happening when tenants are unarmed. You know, to the extent those crack houses are operating, we should somehow close those down.

Senator MIKULSKI. Do you think we can close down crack houses, one crack house at a time?

Mr. HIGGINS. That is probably how you have to start. The answer is not simply to go out and shut down crack houses, because I am sure there is a vacant property somewhere else.

Senator MIKULSKI. It is like water, is it not? I mean, if it hits here, it goes someplace else, and it goes someplace else.

Mr. HIGGINS. We need to get the people who are opening the crack houses as opposed to just focusing on the crack house itself.

Senator MIKULSKI. Who are the prime movers in opening the crack houses? Is it the Jamaican Posses?

Mr. HIGGINS. In some cities it is Jamaicans; others, it is Crips and Bloods; others, it is various street gangs at some times. So, depending upon the city, it could be one or more of those groups.

STATE GUN CONTROL STATUTES

Senator MIKULSKI. I see.

Now, one of your jobs, of course, is to confiscate the weapons and the people who violate the statutes that you outlined today. I want to ask you a question. If you prefer not to answer, fine, because this is not the nature of this hearing.

Do you feel that when States enact gun control statutes, that that is of help to you? And I am not going to try to draw you into the gun control debate. But you are the leading gun control expert—and again I do not want you to necessarily agree with me. I really need good advice on how we can control guns. Right now the debate is being shaped between groups opposed to it, groups against it, but not the professionals in the field.

Do you have some thoughts on that?

Mr. HIGGINS. There are some States doing some things which I think are helpful. Anytime that you are able to do anything that helps keep guns out of the hands of criminals—and that is what we are focusing on, people who misuse guns—I think any statute which does that is of some value. We see some States that enacting such statutes.

Senator MIKULSKI. Do you think there ought to be some national efforts in this area? And again, if you feel that this is something that you would prefer a different level of policymaker to comment on—I am not trying to, as they say, finger you.

Mr. HIGGINS. I understand.

I think there is another level of policy that has to be decided in this area. To the extent that one State has a law which is significantly different than another, it makes it very difficult for a neigh-

boring State to keep guns out of the hands of criminals if its laws are more restrictive than those surrounding it.

Senator MIKULSKI. Here in Maryland, West Virginia, and northern Virginia, and so on——

Mr. HIGGINS. Yes, I think that creates a problem. It is not clear how this issue should be resolved, whether by the Federal process or by encouraging the States to do more in their statutes to bring their restrictions up so they are very close to equal.

ESCALATION OF WEAPONS

Senator MIKULSKI. And then my last question, and again, just so we have it for the record, in my visit to the Secret Service Rowley Training Center they showed us the weapons that have been confiscated. What is so stunning is the escalation of weapons. I could have been in a Third World country. I could have visited with the United States pullout after we had eliminated a junta with the types and numbers of weapons I saw. That was just a cameo visit, an anecdotal story.

Is it your observation that the nature of the weapons, the sophistication, the rapid firing, all those firearm technologies are absolutely increasing, and that the old pistol-packing papa who robs a bank is outmoded in their thinking as wild west stories? Essentially you are dealing with an armed force that rivals guerrilla warfare?

Mr. HIGGINS. I think our statistics would show that there is increased firepower. In this particular area, there are more semiautomatic handguns than there are semiautomatic rifles or automatic weapons. In other areas of the country we see, on the west coast and along the Southwest border, more semiautomatic rifles turning up in the hands of narcotics users.

We do see an increase in firepower. That is why a lot of agencies, Federal, State, and local, are also increasing their firepower that they bring to the job and also increasing the training.

PROTECTIVE EQUIPMENT

Senator MIKULSKI. This is one of my last questions. What kind of equipment do you have to protect yourself? You know, we are talking about increased firepower, but that is an awful lot to take, or is there no protection?

Mr. HIGGINS. Ultimately there is probably no protection other than increased firepower. We provide vests and other protective equipment for use in making arrests.

Senator MIKULSKI. Are they worth anything.

Mr. HIGGINS. Well, they are for protection from certain types of rounds and in certain situations. We encourage our people to use them, in fact, demand that they do so in certain situations. We place a lot of priority on the training of our people initially and raid planning, absolutely going through everything that can and might surprise you. So in terms of planning and making sure we are there with a large number of people with a massive show of force, I think all of those things go to discourage the shooter. We, as other agencies have, have had a lot of shootings this past year, even though we prepare for them.

Senator MIKULSKI. Well, this takes me to my last question.

We have heard it said often that we ask people to risk their lives when at times they themselves might be outgunned. There is protection training, and all these fine things. Now, for a BATF agent who started out right out of school, and so on, who has been there 5 years, what would that agent make?

Mr. HIGGINS. A journeyman agent would be about a grade 12. At this point I do not have my salary chart with me.

Senator MIKULSKI. Just roughly.

Mr. HIGGINS. About $35,000 to $40,000. It would be somewhere in that neighborhood. That is not a supervisor. That is a person working the streets.

Senator MIKULSKI. We understand. It is somewhere between the age of like 27 and 30.

Mr. HIGGINS. An agent would become a GS–12 after 4 years.

Senator MIKULSKI. That is a lot to ask.

AGENT STARTING SALARY

Senator DECONCINI. What do they start at?

Mr. HARTNETT. They start at grade 5, in some cases 7, and that is between $15,000 and $20,000.

Senator MIKULSKI. Mr. Chairman, they start at the same rate of pay as a paralegal in the law firms that defend the drug dealers, if I may just draw a gruesome comparison. Well, you have heard your counterpart in the Secret Service. Is it pretty much the same, the issues of retention and equipment?

Mr. HIGGINS. Our experiences are pretty much the same as his, and we are finding that our people cannot compete as well with State and locals. The son of a general of the Army, C.I.D., wanted to come to work for ATF in Orlando, FL. Orlando is not what would be considered a high-cost-of-living area. He wanted to work for ATF. He did everything, passed the test. The day he decided to come to work, the Orlando Police Department made him an offer of $7,000 more a year to start. He said, "I would really like to come to work for you, and my dad wants me to; but, you know, I have got to live, and I cannot afford to refuse the higher salary."

Senator MIKULSKI. And I can still be a law enforcement officer.

Mr. HIGGINS. Yes.

Senator MIKULSKI. But you offered him $18,000 and Orlando was offering him $25,000?

Mr. HIGGINS. Yes.

Senator MIKULSKI. Which is still no big deal.

Mr. HIGGINS. No; I think in Los Angeles the data shows something like we rank about 79th or 80th in terms of all competitive hiring factors. I went to the first pay commission meeting that they had. I see some hope there if we are able to get all pay issues resolved. Ultimately, if people continue to fracture the pay structure, we pay the FBI in New York one thing and we pay scientists in a lab something else, I think the whole pay system will tumble down. We need a system which recognizes the job that you have and distinguishes between jobs and also applies to the locality. You would add a pay differential to a base salary, and have a difference for

jobs and a difference for the locality. You add those together, and that is the person's salary in that area.

I think that is the fairest system for all government employees. So that is why I think the pay commission has at least a chance to restructure pay for law enforcement people.

Senator MIKULSKI. Thank you.

That answers my questions.

Senator DECONCINI. Senator Domenici.

CHILDREN IN SCHOOL AND GUNS

Senator DOMENICI. Mr. Chairman, since the Senator from Maryland was discussing a few issues, a few situations which, while anecdotal, are tough, we do not know what to do, I just want to share one. Without revealing the classroom, I happen to know an eighth grade classroom in this city, all minority, black children discussing the issue of control of pistols and guns. The first 30 or 40 minutes of discussion, everyone talked about trying to make sure that we did not sell guns to anyone. And so there was a vote. Everyone unanimously voted we should not sell guns to anybody. And then somebody got up and changed the discussion to talk about their house and their mother and what would she do without a gun.

That discussion went on for 15 minutes. It centered on, if we do not give guns to anyone, how are we sure that my mother will not have her pistol like the people who have been roaming our neighborhood shooting us will have. And they voted again, and they all voted the opposite way, because they were saying: How will we be protected? They will have the guns and my mother and dad will not have the gun that protects this little house we live in.

I really think that, while that is anecdotal, it really is precisely the state of affairs, which is absolutely incredible. Our decent people are in a war zone. They are scared to death. They are protecting themselves.

I am not suggesting I know the answer either. I think your questions were very——

Senator MIKULSKI. If the Senator from New Mexico would yield. There is an article in today's Baltimore paper. The National Center for School Safety just came out with a report that said on any given day 100,000 children are going to school armed.

Senator DOMENICI. With guns.

Senator MIKULSKI. And years ago, the security guard at a local school functioned a bit as a truant officer, was often a retired cop, a nice way to fill out the pension. Now my school personnel in some of our places in Maryland fear the way you do.

Senator DOMENICI. I understand there is a program in a couple of inner-city schools in the United States where they are running a detector as kids go to school, you have got to go through the detector so they can find out whether the kid is bringing a gun in.

CRACK HOUSE LEGISLATION

Let me ask a question about just the generic notion of a crack house. One of the things that I am firmly convinced of at this point is that our laws make it too difficult to make arrests and to make

them stick. So you almost have to plant an insider in a crack house to get a conviction.

Might I ask this question? Have any of you literally seen a typical crack house in the metropolitan area of Washington, DC?

Mr. HIGGINS. Yes.

Senator DOMENICI. And I do not want anyone to be telling me things they should not state on the record, but we have heard about them. In fact, right up here is a little Catholic school on East Capitol. On the third floor of the school, you can point out, a teacher will be able to point out and say: There is a crack house right over there; it is 180 feet away. And it is.

Could we possibly define in a statute what one of those places is and make it illegal to be there, as contrasted with having to actually be the seller?

My concern honestly is that we are out looking for the big seller, whether he is the regional or the block seller, or the big hood that is in charge of the whole operation. But essentially we ought to also get the user off the streets some way. I mean, the longer the demand continues, we will close one crack house and another one will go up. But it is illegal to use drugs. I mean, that is a crime. It is a Federal crime. In almost all jurisdictions it is a State crime.

We seem bent on arresting those people who are selling. But it seems to me, unless and until we punish those who are actually using it also, we are just going to take one step forward and five backward.

And here is a crack house. We know it is there. The Senator from Maryland said why do we not close it. Well, we might close it after a lot of effort of proving what is going on there, but another one will open. And it is the activity going on in it that is illegal, not just that physical premise.

Mr. HARTNETT. Senator, they move so quickly. You hit a crack house. You arrest the individuals that are there for possession. Unless you have them trafficking, they are going to be out the next day on bond, or there is a good chance they will be. If there is a lot of pressure put on a particular crack house, they will move to another. If there is a vacant apartment, they do not ask the people in a housing development to move into the apartment. They will move in as soon as somebody moves out, without saying a word and will just set up business. Then you knock them out and they will move someplace else.

I feel that if you put the resources in to combat the crack houses and you have high bonds and stiff penalties and you take your time putting together the case, you are going to get good penalties. Some of the new laws that we have are really fine laws. We can put people in jail and we need to give new laws a little bit of a chance to get started.

Senator DOMENICI. And we can hold a number of people without bond, too; obviously it cannot be the first felony but——

Mr. HIGGINS. In fact, take the Jamaican Posses as an example, if you do not hold those people without bond, you probably will not see them again at trial.

Senator DOMENICI. Let me just say that I appreciate everything you all do. I understand that we are all asking more of you and we are trying to give you more to do that which you are trying to do.

My absence for the first 40 minutes or an hour should not be construed to be a lack of enthusiasm or interest. I think we all suffer from frustration as much or more so than a willingness to do something, doing piecemeal things. I keep hearing even in Washington, DC, somebody saying we need a plan, and I think that makes sense. On the other hand, I am fearful that if you sat down and really put a plan together, you would run into an awful lot of stumbling blocks on implementing a plan that would work. We do not have enough facilities in which to put people. We do not have enough facilities in which to put those who are addicted. We do not even have enough prisons, medium security and otherwise. We probably do not have enough judges to try them in an expedited manner. And if we went without bond for a state of emergency for 2 or 3 years, we would not know where to put the people. It seems like that would come out in any plan. But we have to keep trying.

On the organized gangs, I understand there has been testimony here that they are moving from the areas that we assumed they are in and as far east from California as Arizona, in the chairman's area there are now some gangs. I wonder, is there any indication with reference to New Mexico that they are moving in that direction?

Senator DECONCINI. I asked them that question.

Senator DOMENICI. You asked them?

Senator DECONCINI. Bad news.

Mr. HIGGINS. You have got them. We are working there not only as part of the Organized Crime Drug Enforcement Task Force area out of San Diego, which includes that entire area of Arizona, New Mexico, and southern California; but we are also working with organized crime units and the metro DEA squads in and around Albuquerque and targeting gang activity and drug activity. So we are attempting to deal with that, with good people there and good cooperation, State and local.

Senator DOMENICI. I will submit the rest of mine, Mr. Chairman.

Senator DECONCINI. Thank you, Senator.

MINORITY RECRUITMENT

I am interested in some background about your minority recruitment, how successful you have been and what your techniques or procedures are. I will submit further questions on that issue for the record. Senator D'Amato has some questions, too. I will give them to you right here.

I have a few other questions myself, Mr. Higgins, but I will submit them to you as well.

Thank you very much.

Mr. HIGGINS. Thank you, Mr. Chairman.

SUBMITTED QUESTIONS

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR DECONCINI

OCDETF TRANSFER

Senator DeConcini: Your FY 90 budget request is being reduced by $13.867 million from the FY 89 enacted level. Your justification indicates in large part, this reduction is due to a provision in the Anti-Drug Abuse Act of 1988 requiring funds devoted to the Organized Crime Drug Enforcement Task Force to be transferred to the Department of Justice, and a provision in the new Inspector General Act Amendments requiring internal audit funds to be transferred to the new statutory Inspector General at the Department of the Treasury.

First, how do you know the 128 FTEs and $8.6 million programmed for transfer to the Department of Justice for the Organized Crime Task Force will make their way back to ATF for the organized crime activities carried out by your Agency?

Mr. Higgins: The Department of Justice has advised ATF that the 128 FTEs and the $8.6 million dollars allocated to ATF has been submitted to the Congress as part of the FY 1990 budget. We are in the process of setting up a reimbursable agreement with the Department of Justice.

Senator DeConcini: In reference to the Organized Crime Drug Enforcement Task Force Program, how are the resources devoted to the Program from your Agency being utilized?

Mr. Higgins: ATF has coordinators in all 13 Organized Crime Drug Enforcement Task Forces (OCDETF) and additional full-time personnel dedicated in 11 of these cities. Additionally, agents throughout the country are also dedicated to work on OCDETF as the situation dictates. A program manager at ATF Headquarters coordinates these efforts.

During FY 1988, ATF initiated 830 OCDETF-related investigations. As a result, 798 defendants were recommended for prosecution, and 3,323 firearms and over 40,000 rounds of ammunition were seized by special agents.

Senator DeConcini: How many of the task forces are working in the Southwest and are any of these doing work in Arizona?

Mr. Higgins: The OCDETF Southwest Border Task Force is centered in San Diego, California. This core city handles OCDETF operations in the Southern California border areas and throughout Arizona and New Mexico. ATF agents in Phoenix and Tucson actively pursue OCDETF cases throughout Arizona.

INSPECTOR GENERAL TRANSFER

Senator DeConcini: Second, how was the decision arrived at to transfer 19 FTEs and $905,000 to the Departmental statutory IG? Do you believe the numbers were a fair representation of the FTEs currently devoted to these activities within ATF?

Mr. Higgins: We believe the 19 FTEs and $905,000 identified for transfer to the Statutory Inspector General Office in FY 1990 is a fair share for ATF.

NON-RECURRING COSTS

Senator DeConcini: The remaining decrease of $3.030 million in your budget is being attributed to FY 89 nonrecurring expenses of $2.76 million for the procurement of a mainframe computer, and savings to be realized from the so-called "A-76 Circular". Your justification estimates a savings of $227,000 and 27 FTEs from these A-76 activities.

Can you give us an updated status report on the mainframe computer?

Mr. Higgins: When we received the nonrecurring funds for the excise tax and special occupational tax mainframe computer, we felt we needed the services of a consulting firm to provide expert advice in acquiring a new mainframe and integrating it into existing ADP equipment. The current schedule for acquisition of the new mainframe computer is:

Acquisition Phase	Completed By
Preliminary requirements analysis (a review of requirements and development of detailed implementation and management plan):	March 1989
In-depth requirements analysis to specify Bureau needs for the next five years	September 1989
Request For Proposal	October 1989
Contract Awarded	June 1990
System Installation	September 1990

Senator DeConcini: Are any additional costs needed in FY 90 which are not reflected in your budget request, to bring this system on-line?

Mr. Higgins: At the completion of the in-depth analysis in September, we will be in a better position

to reflect on additional requirements and costs to bring the system on-line.

Senator DeConcini: How does OMB expect you to achieve the A-76 savings?

Mr. Higgins: We are working with the appropriate offices at OMB and Treasury to determine those areas that could be considered for study. ATF will make every attempt to realize the projected savings in FY 1990.

Senator DeConcini: Is it possible to do so without taking it from program requirements?

Mr. Higgins· ATF must take "savings" from program requirements since the Bureau was assigned a pro-rated share of savings mandated to the Department.

REDUCTION IN ALCOHOL PROGRAMS

Senator DeConcini: One of the most notable changes in your FY 90 budget is the reduction of 130 FTEs and $8 million from the Alcohol Compliance Program and the redirection of 24 FTEs and $2.3 million from the Alcohol Enforcement Program to the Firearms Compliance and Enforcement Activities. While I am a big advocate of the Bureau's Firearms Activities, I am concerned about the impact the proposed budgetary reduction will have on your ability to oversee alcohol beverage product integrity and excise tax collection.

Can you explain the genesis of this proposal and tell us if enacted, what impact it will have on your statutory responsibility to enforce the Federal Alcohol Administration Act and ensure compliance with excise tax payments?

As you know, a reprogramming of alcohol compliance and enforcement funds and FTEs for the Firearms Programs was proposed for FY 89. You received a very strongly-worded letter from the ranking member and myself denying this reprogramming. While I know this reprogramming was generated by OMB, if this reprogramming had gone through, can you tell me what you think the affect would have been on your ability to carry-out your responsibilities under the Federal Alcohol Administration Act?

Mr. Higgins: The President's Budget for FY 1990 includes a reduction of 130 FTE and $8.0 million from the Alcohol Compliance Program and a redirection of 24 FTE and $2.8 million from the Alcohol Enforcement Program to the Firearms Enforcement Program

The FY 1990 proposals associated with a reduced Alcohol Program are predicated on amendments to existing statutory requirements of the Federal Alcohol

Administration (FAA) Act. While the amended FAA Act may change procedural requirements, it will not undermine ATF's basic regulatory responsibility for the alcohol industry or affect excise tax receipts.

The proposed realignment in FY 1989 in the Alcohol Programs was meant to bring the budget for this program more in line with actual experience in FY 1988. As such, it does not represent a policy decision to downgrade the alcohol program, but rather a decision to more accurately reflect the priority that ATF is expected to give to the firearms programs in the future as it has in the past.

Senator DeConcini: What is the status of legislation proposed by the Administration to change ATF responsibilities under the Federal Alcohol Administration Act?

Mr. Higgins: The Administration is working on proposed legislation. It is not certain when the package will be ready for transmittal.

Senator DeConcini: In your view, is it at all likely that Congress will go along with the proposed legislative changes?

Mr Higgins: We are certain that the Administration will present to the Congress a carefully considered legislative proposal to amend the FAA Act. We hesitate to predict Congressional reaction to the proposed legislation, but wish to emphasize that the reductions to the Alcohol Compliance Program proposed in the budget are predicated on its enactment.

Senator DeConcini: I see your budget also proposes reductions due to productivity savings of 54 FTEs and $454,000.

How were the figures for these savings arrived at and can they be achieved in FY 90 without sacrificing program requirements?

Mr. Higgins: Reductions due to productivity savings are 27 FTEs and $227,000. These savings are previously mentioned as "A-76" savings. These estimated savings were developed by OMB and included in passback for FY 1990. The savings projection is based on a formula developed by OMB that allows agencies, employees and taxpayers to share in the potential savings from this program.

STAFFING LEVELS

Senator DeConcini: In the FY 89 Appropriations Bill, the Committee established a floor of 3,701 FTEs for the Bureau.

Can you tell us how many FTEs you presently have on board and whether you expect to achieve the 3,701 FTE level by the end of the fiscal year?

Mr. Higgins: As of the end of March, our projections indicate an under-utilization of about 124 FTE. We plan to continue our aggressive recruiting campaign to meet the goal of using 3,701 FTE in FY 1989.

Senator DeConcini: Will you be able to meet this target without the approval of the reprogramming from non-pay to pay object classes?

Mr. Higgins: The proposed reprogramming of funds from non-pay to pay object classes would ensure sufficient salary and benefit funds are available to reach the 3,701 FTE floor.

Senator DeConcini: Your FY 90 budget proposes to reduce your FTE level to 3,684. What impact will this reduction have on your ability to carry out your statutory responsibilities?

Mr. Higgins: The Bureau has an authorized level of 3,684 positions and 3,397 FTEs for FY 1990. This level includes reductions taken from the Compliance Operations Alcohol Program (130 FTEs), from A-76 productivity savings (27 FTEs), for the Internal Audit transfer to Department Inspector General (19 FTEs), and the transfer of the Organized Crime Drug Enforcement Task Force (OCDETF, 128 FTEs) to the reimbursable program under the policy guidance of the Department of Justice. If the Congress enacts the amendments to the FAA Act, the proposed FTE reduction to the Alcohol Program will be possible with no disruption to excise tax collection.

Senator DeConcini: If the Committee does not go along with the proposed reductions in the Alcohol Compliance Program nor the redirection proposed for the Alcohol Enforcement Program, how much funding will be necessary to provide the proper staffing level for your Firearms Program?

Mr. Higgins: If the reductions and redirections proposed in the budget do not occur, the funding and staffing levels are:

Compliance Operations requires 287 FTEs and $16 million to provide the proper staffing level for its Firearms Program.

The Office of Law Enforcement requires 1,343 FTEs and $98.5 million for the Firearms Program.

ARMED CAREER CRIMINALS

Senator DeConcini: ATF has been at the forefront of the battle to bring Armed Careers Criminals to justice. Can you update the Committee on the recent successes you have had in this Program?

Mr. Higgins: During the first quarter of FY 89, inspectors have completed or have initiated 4,300 inspections, made 331 referrals to Law Enforcement and have corrected 1,150 serious violations by federal firearms licensees.

Our Armed Career Criminal Program, entitled "Project Achilles", is an integral part of our Firearms Enforcement Program that has provided outstanding prosecutive results in the short while that it has been in existence. During the period of October 1, 1986, to the present, we have completed criminal cases that have resulted in enhanced sentencing under 18 U.S.C. section 924(e) for 191 defendants. During the same period, we have obtained mandatory sentencing under 18 U.S.C. section 924(c) for 218 defendants. Sentences thus far have totaled 4,443 years. Not included in this total are life sentences received in the Dallas and New Orleans Districts. Project Achilles is rapidly developing into one of ATF's most successful enforcement programs.

ATF has been presented with two statutes that provide our agency with the capability to significantly impact violent crime on a level comparable to, if not more than, any other Federal law enforcement agency. We are proud of our accomplishments in this important enforcement area, and we will continue to diligently pursue prosecution of those violence-prone offenders who plague our society.

Senator DeConcini: Can you also tell us what impact the FY 90 Budget will have in the progress being made in getting Armed Career Criminals off the streets?

Mr. Higgins: Our FY 1990 Budget will enable us to increase firearms cases by 1.9 percent over FY 1989 due to productivity increases rather than staffing increases.

Senator DeConcini: How many FTEs do you presently have devoted to this Program and how many will you be able to devote under your FY 90 Budget request?

Mr. Higgins: As of the end of March, our projections indicate usage of 454 FTEs in this program. We plan to continue our aggressive recruiting campaign to meet the goal of using 543 FTE in FY 1989.

Senator DeConcini: What is the optimum level necessary to eliminate the threat posed by repeat offenders?

Mr. Higgins: Because of the constant increase of criminal activity by armed career criminals, it is a difficult task to estimate an optimum level of resources necessary to eliminate the violence perpetrated by repeat offenders.

Senator DeConcini: Realistically, how many additional FTEs could you train and bring on board in FY 90, which are not included in your Budget request?

Mr. Higgins: Whatever resources are provided will be effectively managed and utilized to suppress the armed career criminal.

Senator DeConcini: In FY 89, the Committee provided additional funds necessary to bring the Armed Career Criminals Program to an FTE level of 543. What level are you at presently?

Mr. Higgins: As of the end of March, our projections indicate 454 FTEs will be expended in this program.

Senator DeConcini: Can you attain the 543 level by the end of the fiscal year?

Mr. Higgins: We expect to attain the 543 FTE level by the end of the year.

Senator DeConcini: How many FTEs will be devoted to this Program in FY 90?

Mr Higgins: For FY 90, we will devote 567 FTEs to this program.

Senator DeConcini: The Anti-Drug Abuse Act of 1988 included a number of tough new Federal statutes to aid Federal Prosecutors in their war on drugs. Has your Agency, particularly through the Armed Career Criminals Program, been able to effectively utilize any of these statutes?

Mr. Higgins: The Anti-Drug Abuse Act of 1988 contains new statutes and amendments to the Federal firearms laws that are being effectively used through our Armed Career Criminal Program. We are realizing a constant increase in the number of armed career criminals being prosecuted, which can partly be attributed to these new and important statutes.

This legislation greatly enhanced the penalties for carrying or using a firearm during the commission of a Federal violent felony or drug trafficking crime. The penalty for a second offense was increased from 10 years

to 20 years. If the firearm is equipped with a silencer or is a machinegun, the penalty for the first offense was increased from 10 years to 30 years, and for a second offense, the penalty was increased from 20 years to life imprisonment. Of course, all these penalties are without probation or parole. The legislation also expanded the definition of what constitutes a drug trafficking crime and now includes violations of all Federal narcotics laws.

The Anti-Drug Abuse Act of 1988 also amended the Federal wiretap statutes to include as predicate offenses virtually all felony Federal firearms statutes. This action significantly enhanced our ability to perfect criminal cases against narcotics traffickers and organized criminal elements who criminally misuse firearms.

The Anti-Drug Abuse Act of 1988 also amended the Armed Career Criminal statute relating to mandatory sentencing of a person who possesses a firearm after having been convicted of three violent felonies or serious drug offenses by including as predicate offenses certain juvenile convictions involving the use of firearms or other weapons. It also created a new crime making it illegal for an individual to transfer a firearm to another, knowing it will be used in a crime of violence or drug trafficking crime.

These changes and an ever-increasing enforcement of the statutes have resulted in an increase in Project Achilles cases being prosecuted.

Senator DeConcini: Does your Agency have any suggestions for Congress on revisions to existing Federal statutes that would benefit your efforts to improve the Armed Career Program?

Mr. Higgins: Title 18 U.S.C. chapter 44 section 924(c) of the Gun Control Act of 1968 currently prohibits using or carrying a firearm during and in relation to any crime or violation to any crime of violence or drug trafficking crime. It would be desirable to have the statute amended to change the words using or carrying to possessing.

For example, among the most common narcotics crime scenarios is one in which a suspect has a gun in the glove compartment of his car, or the gun is on a table nearby when the arrest is made. In these instances, the suspect is not "using" or "carrying" the firearm. However, since the firearm is within reach, it is (according to law) constructively possessed by the suspect.

Thus, prosecution for "possession" of a firearm would incorporate some scenarios in which drug and firearm

offenders now go free because of the technical nature of the law.

DRUG BILL FUNDING

Senator DeConcini: Can you tell us how those funds are being used in FY 89 and what activities you plan to undertake in FY 90 with this additional $7 million?

Mr. Higgins: The Drug Bill funds are being allocated in a number of areas, all of which support Law Enforcement's efforts to keep firearms out of the hands of persons engaged in illegal drug activities. These funding areas include: payroll compensation and benefits for additional special agents and inspectors; mission travel; training; and other support categories, such as equipment and supplies.

The existing funds have been efficiently used during FY 89 in such areas as the creation of new armed career criminal investigative groups like the one recently established in our Detroit District. We anticipate further use of the funds allotted in FY 90 to target armed career criminals through increased task force participation and enhanced enforcement liaison with State and local law enforcement officials.

Senator DeConcini: How many additional FTEs do you need to effectively comply with the directives contained in the Drug Bill?

Mr. Higgins: The Drug Bill appropriated $7 million for FY 1989 which we estimate will allow us to fund 150 FTE within our existing ceiling.

FIREARMS TO AGENTS

Senator DeConcini: Do all ATF Agents and Investigators have sufficient weapons to protect them from attack by criminals?

Mr. Higgins: Presently, the primary duty firearm issued to ATF special agents is a .357-caliber revolver and we are in the process of converting to the 9mm semi-automatic pistol. An auxiliary revolver may be issued to each special agent, in addition to the primary duty firearm. In addition, semiautomatic pistols may be issued to special agents who have demonstrated a desire, proficiency, and suitability for such a weapon.

During special operations where the activity requires greater defensive tactics for operational effectiveness, special-purpose firearms are utilized. These activities include but are not limited to the execution of warrants, arrests, and surveillances. Such special-purpose firearms include the Remington, model 870, 12-

gauge, pump-action shotgun, and the Colt, AR-15, .223-caliber, semiautomatic rifle.

Senator DeConcini: What is the status of your proposal to arm all of your Agents with 9mm semi-automatic weapons?

Mr. Higgins: Currently, 295 ATF special agents have been issued the new 9mm semiautomatic pistol as their primary duty firearm. By the end of calendar year 1989, a total of 1,000 such 9mm pistols will be issued to ATF special agents (at a cost of approximately $500 per weapon) as their primary duty firearm.

OPERATION ALLIANCE

Senator DeConcini: During the FY 89 hearings, you stated that you planned to devote 33 people to the Operation Alliance Program. Have you been able to get those Agents in place and how and where are they being utilized by the Alliance?

Mr. Higgins: Yes, a total of 33 special agents are in place and are being used by Operation Alliance. These positions came from existing resources and are deployed in ATF's Los Angeles, Dallas, and Houston District Offices. These special agents are aggressively pursuing armed drug traffickers and violent criminals in such areas as San Diego, Tucson, El Paso, Brownsville, Houston, Phoenix, and other border areas.

Senator DeConcini: Do you plan to commit personnel to Operation Alliance in FY 90?

Mr. Higgins: Based on current staffing, we will keep those 33 special agents active on Operation Alliance.

Senator DeConcini: If the resources were available to ATF, what additional steps could your Agency take to enhance the efforts of Operation Alliance?

Mr. Higgins: If Congressional enhancements are proposed, additional agents could be deployed in key border areas throughout the Los Angeles, Dallas and Houston Districts. However, the levels proposed in the budget are adequate to address the most critical needs.

Senator DeConcini: Are there other activities in which ATF could participate if you had the resources to make this program more effective? Please explain the activities and tell us whether your FY 90 Budget is sufficient for these purposes.

Mr. Higgins: The current Operation Alliance program has developed a special cooperation and coordination in the border area. We know of no new activities to make the program more effective. Rather, we would expand our

current plan to attack the armed career criminals and armed drug traffickers.

BUDGET REQUEST TO TREASURY AND OMB

Senator DeConcini: Can you tell us where you would have improved your activities in FY 90 if your Budget request to the Department had been approved?

Mr. Higgins: We proposed expanded efforts against violent groups, armed career criminals, special investigative equipment modernization to facilitate special agent safety (such as firearms, surveillance and other related equipment), and additional funding of the Agency Consolidated Information System (ACIS) in our spring budget submission to the Treasury Department.

Senator DeConcini: What is the cost for initiatives that were not approved by OMB?

Mr. Higgins: Our FY 1990 budget submission to OMB included a $1.6 million initiative to continue the development of ACIS which was denied.

ARSON

Senator DeConcini: ATF has been very effective in the investigation of major cases and has provided invaluable evidence in the prosecution of criminal cases involving arson. What is your Budget request for arson-related activities in FY 90?

Mr. Higgins: ATF's FY 1990 budget request for arson-related activities is $22.7 million and 311 FTEs.

Senator DeConcini: How does it compare to FY 89?

Mr. Higgins: The FY 1990 budget for arson-related activities is $.6 million above our FY 1989 funding and maintains the same FTE level.

GANGS

Senator DeConcini: Is there an expanded enforcement role your Agency can undertake to further reduce the risks to innocent victims across the country by the Jamaicans, Haitians, Crips, and Bloods?

Mr. Higgins: ATF continues to use all available resources to expand its role in reducing the risks to innocent victims by using the Federal firearms and explosives laws to effectively combat the Jamaicans, Haitians, Crips, and Bloods.

Senator DeConcini: In how many cities and counties across the country is ATF presently engaged with State

and Local Law Enforcement Agencies to combat gang activity?

Mr. Higgins: ATF is directing resources at new and emerging crime groups known as the "Jamaican posses," "Crips," and "Bloods," and other street gangs. ATF is involved in numerous enforcement actions. In particular, ATF agents are active in 40 State and local task forces concentrating on Jamaican posses. In this effort, a Jamaican data base has been established to provide a central location for processing and disseminating intelligence on these individuals and their criminal activities.

ATF is also involved in joint Crips and Bloods investigations in 14 cities. To assist with the monitoring and tracking of the Crips and Bloods street gangs, ATF recently obtained access to the Los Angeles Sheriff's Department's Gang Reporting, Evaluation, and Tracking data base to access between 50,000 and 60,000 records on individuals associated with various gangs.

Senator DeConcini: How many cities and towns have requested the aid of ATF because of a growing gang problem?

Mr. Higgins: ATF does not keep statistics regarding these requests; however, the number of cities facing gang problems is growing daily. ATF responds to all requests where violations of the Federal firearms or explosives laws exist.

Senator DeConcini: How is the cooperation amongst other Federal Law Enforcement Agencies and State and Local Governments in the gang area?

Mr. Higgins: The cooperation is excellent, as evidenced by the many joint task forces addressing the gangs throughout the United States.

ATF has determined that the only way to effectively combat gangs is to develop a national strategy that includes a coordinated Federal, State, and local effort. As a result, numerous task forces have been formed around the country. Typical of these task force efforts in combating the growing Jamaican drug operation was operation "Rumpunch II". From October 13-14, 1988, Federal, State, and local task force agents attempted to execute 75 search warrants and 435 arrest warrants in 20 States and the District of Columbia. Two days later, 304 gang members were arrested, and 90 firearms, $216,000 in cash, 133 ounces of cocaine, 31 pounds of marijuana, and 2,000 vials/rocks of crack cocaine were seized.

ATF's role in the investigation of gang members focuses on their domestic and international trafficking

in firearms. Gang members obtain firearms by one of three methods: purchases by third parties, thefts and robberies, or falsification of firearms dealer records. Firearms are used for intimidation, protection, and enforcement by gang posse members throughout the United States in their day-to-day narcotics trafficking operations.

TOBACCO

Senator DeConcini: I note in your Budget justification that you have requested no funds for Tobacco Enforcement because this responsibility has been transferred to the States.

Senator DeConcini: Have you monitored the progress of State oversight of the Tobacco Industry? If so, are the States capable of assuming this role without reducing the Compliance levels expected by the Public?

Mr. Higgins: Yes, as a result of monitoring the States' oversight of the Tobacco Industry, I am confident that the States are capable of assuming this role without reducing the compliance levels expected by the public.

Senator DeConcini: Is there a role which ATF should continue to play? If so, please explain.

Mr. Higgins: ATF will continue to monitor this progress and, when necessary, coordinate or assist the various States with investigations.

MEXICO

Senator DeConcini: Has the Salinas Administration, and in particular, Attorney General Del Castillo, approached your Agency since they came into office about improving cooperation on firearms investigations?

Mr. Higgins: We have not been approached by Attorney General Del Castillo or his office concerning improving cooperation on firearms investigations. We plan to take the initiative in establishing a cooperative working relationship with the new administration.

COLLECTION OF EXCISE TAXES

Senator DeConcini: In fiscal year 1987, ATF assumed responsibility for collecting Excise Taxes that it is responsible for enforcing, such as those on tobacco and alcohol, and processing the related returns. That function was previously handled by IRS on a reimbursable basis. ATF instituted various procedures, including a "lockbox" system through which Mellon Bank collects the taxes, deposits the money in the Federal Reserve System, and forwards the return to the appropriate ATF Regional Office for further processing.

Has the change in Excise Tax collection procedures had any significant effect on taxpayer compliance? If so, please explain.

Mr. Higgins: The new tax collection and return processing procedures have potential to improve taxpayer compliance. They have already given us quicker access to more accurate data. For example, under the old system, it often took weeks before we found out that a taxpayer had not paid or that a check was returned for insufficient funds. Under the new procedures, we are able to identify these problems much sooner. Quick action by ATF specialists is often critical because late payments or returned checks submitted by taxpayers may indicate financial problems; for example, a pending bankruptcy. The sooner we identify a pending bankruptcy, the sooner we are able to protect the Government's interests.

Senator DeConcini: How much, if at all, has the amount of tax revenue increased or decreased under the "lockbox" system?

Mr. Higgins: Under the lockbox system, excise tax collections in FY 1988 were at the same level as in FY 1987, about $10.4 billion. There are several advantages in using a lockbox. Taxes are deposited and available for use more quickly.

Senator DeConcini: To what extent, if any, have the administrative costs for processing returns and collecting excise taxes increased or decreased under the lockbox system as compared to when IRS processed the excise tax returns?

Mr. Higgins: Financial Management Service, which coordinates lockbox activities, has informed us that our lockbox substantially benefits the Government's cash management efforts. The lockbox bank also processes our returns and performs data-entry services for us. Without the lockbox, we would have to pay for these return-processing and data-entry services.

OCCUPATIONAL EXCISE TAX

Senator DeConcini: Businesses engaged in selling alcoholic beverages are required to pay a Special Occupational Excise Tax annually. In December 1987, the Occupational Excise Tax rates were increased and the Tax was extended to thousands of businesses not previously covered. In its fiscal year 1990 Budget, ATF estimates that there are 240,000 non-compliant Special Occupational Taxpayers. In a June report, GAO estimated that compliance with the Occupational Taxes was about 40 percent.

Senator DeConcini: What special compliance activities are underway or planned to increase compliance with Occupational Tax requirements?

Mr. Higgins: We are taking a number of actions to increase compliance with Occupational Tax requirements.

- In the past year, we have reviewed the computer file received from IRS and reduced it by 40,000 records of businesses determined to be out of business.

- We have obtained, and continue to obtain, lists of retailers from states to compare them to the ATF master list and to identify businesses which owe Special Occupational Tax (SOT).

- In some instances, state lists are being obtained monthly to identify new taxpayers.

- Businesses identified as owing SOT are first contacted by telephone to initiate payment (from June 1988 through January 1989, over 30,000 new locations were added to the database).

- Contact with state agencies has resulted in many states now including SOT information and/or tax returns in new or renewal state license packages.

- To increase awareness of taxpayer SOT responsibilities, last year we initiated an extensive publicity campaign which we will continue with this year. It includes issuing press releases and providing information to industry associations, trade journals and affiliated professionals (accountants and attorneys).

- Seminar programs are planned for SOT payers.

Senator DeConcini: For those activities underway, what have been the results?

Mr. Higgins: Our SOT collections and related compliance activities are producing very positive results. Total SOT collections during FY 1988 were $128 million, including a one-time collection of $35 million. Of that total, revenues from delinquent SOT payers amounted to $6 million. In FY 1989, SOT collections through the end of February were $16.7 million, almost all of which were collections due to our various compliance programs. By the end of FY 1989, we expect to collect in excess of $110 million.

Senator DeConcini: What effect will the reduction in Alcohol Compliance staff have on current or future compliance activities?

Mr. Higgins: The Alcohol Compliance Program is funded at a level commensurate with amendments to be proposed to the FAA Act. Sufficient resources would be available to perform essential SOT and excise revenue collection activities as well as to ensure product integrity.

FIREARMS

Senator DeConcini: If Congress banned the "assault-type" rifles, could we expect a "black market" to develop whereby the criminal would still obtain them?

Mr. Higgins: Because of the increased demand in these types of weapons by narcotics dealers and career criminals, there exists a flourishing black market for these types of guns. Not only is there a domestic black market, but illegal international gun traffickers (as well as narcotics dealers) have been smuggling them into Mexico, Central America, and South America. We almost have a reverse drug situation where drugs flow into the country and firearms flow out.

If Congress were to ban assault-type weapons, the criminal element would continue to acquire them illegally or would substitute weapons.

Senator DeConcini: Can you tell us if domestic terrorist groups such as "White Supremacists" and other hate groups use assault-type weapons and where do they acquire them?

Mr. Higgins: During the course of ATF investigations throughout the country on such hate groups as the Aryan Nation, the Order, the Ku Klux Klan, and the Posse Comitatus, we have seen an increased use of what would be classified as assault-type firearms.

In 1985, ATF, along with other Federal, State, and local enforcement agencies conducted an investigation on the members of the Covenant, the Sword, and the Arm of the Lord in the area of the Arkansas-Missouri border. Subsequent to conducting a raid on the compound, numerous arrests were made and several firearms and explosives were seized. The firearms included numerous machine-guns, silencers, and many semiautomatic rifles that could be referred to as assault weapons.

All of these groups have shown a fascination for fully automatic weapons or, in their absence, a fascination for military-appearing semiautomatic rifles.

Senator DeConcini: We hear that drug traffickers are increasingly arming themselves with AK-type firearms.

Do you have statistics on the types of weapons being recovered on the streets?

Mr. Higgins: Because of the very violent nature of the drug trafficking business, these criminals have shown a desire to arm themselves with very sophisticated weaponry that distinctly provides a great deal of firepower. The types of weapons have run the entire spectrum from machine-guns, many equipped with silencers, to semiautomatic firearms that could be described as assault-type weapons.

During calendar year 1988, ATF traced approximately 37,000 firearms that were used in crimes. Of the total firearms traced, approximately 4,000 (or about 10 percent) were found to be what are commonly referred to as assault-type weapons. Included in this total were 412 AK-type firearms (approximately 1 percent). Twenty-eight of the AK-type firearms were involved in homicides.

Senator DeConcini: It is sometimes stated that law abiding persons buy firearms from licensed dealers while criminals acquire their guns on the street or by theft. Is this true?

Mr. Higgins: Only a small percentage of firearms recovered by ATF are stolen. During FY 1987, ATF seized approximately 8,600 firearms, and only 8 percent were reported stolen. In FY 1988, ATF seized 12,900 firearms, of which only 5 percent were reported stolen.

ATF has completed numerous cases on criminals who have used straw purchasers to acquire their firearms. Straw purchasers are those person merely being used to disguise the actual purchase of firearms by another person who is prohibited from receiving or possessing a firearm. Other typical methods employed by the criminal element are to utilize fictitious identification or to simply lie when responding to the questions on the firearms transaction record.

Senator DeConcini: How easy is it to convert semi-automatics to fire fully automatic--specifically the AK-type weapons; what is your estimate of the number of illegal machine-guns in the U.S.?

Mr. Higgins: Most semiautomatic rifles, including the AK-type firearms, are very difficult to convert to fully automatic because they fire from a closed bolt. Traditionally, semiautomatic weapons that fire from an open bolt have been much easier to convert to fully automatic. This is not to say, however, that AK-type firearms are not being converted to fully automatic. We have encountered numerous conversions that were accomplished through the alteration of existing parts or the interchange of various internal parts.

It would be very difficult and purely speculative to try to estimate the number of illegal machine-guns presently in circulation throughout the United States.

Senator DeConcini: Can you explain why there has been such a dramatic increase in the importation of AK-type semi-automatic weapons from 1986 on?

Mr. Higgins: The AK-47 machine-gun over the last several years has become a highly fashionable and popularized firearm in the news media. It is continually visible in newspapers and news broadcasts being carried by various military personnel around the world and different radical groups. It has also become somewhat of a fashion within the movie industry, which has increased its visibility and recognition among the American people. The AK-type semiautomatic firearm in appearance is a very close replica to the AK-47 machine-gun and, as a result, has generated a great deal of interest in this country.

Questions Submitted by Senator Domenici

ALCOHOL ADMINISTRATION ACT

Senator Domenici: The fiscal year 1990 justification submitted to us proposes the deletion of statutory language contained in the current Appropriations Act providing that $15 million be available solely for the enforcement of the Federal Alcohol Administration Act. The justification indicates that this Appropriations language "unnecessarily restricts the Bureau's ability to redirect resources to programs of critical need."

Why is this the case? Isn't it true that more than $15 million is normally required to administer this Act?

Mr. Higgins: The Administration has proposed legislative language deleting the statutory requirement providing $15 million to administer the FAA Act. Since substantially more than $15 million is normally required to administer this Act each year, the proposal addresses a policy issue as opposed to a practical constraint. In general, the Administration believes that bill language such as this unnecessarily restricts management's flexibility to address areas of critical need during budget execution.

Senator Domenici: What level of funding was required to administer the Act in fiscal year 1988?

Mr. Higgins: The level of funding in fiscal year 1988 was $24.1 million.

Senator Domenici: What level of funding do you expect to spend in fiscal year 1989 to administer the Act?

Mr. Higgins: The estimated level of funding in fiscal year 1989, without the OMB proposed reprogramming, will be approximately $25 million.

ANTI-DRUG ABUSE ACT

Senator Domenici: In addition to the fiscal year 1989 regular Appropriation, the Bureau received a $7 million supplemental Appropriation under the Anti-Drug Abuse Act of 1988. How is this additional $7 million being allocated?

Mr. Higgins: The Drug Bill funds are being allocated in a number of areas, all of which support Law Enforcement's efforts to keep firearms out of the hands of persons engaged in illegal drug activities. These funding areas include: payroll compensation and benefits for additional special agents and inspectors; mission travel; training; and other support categories, such as equipment and supplies.

REPROGRAMMING PROPOSALS

Senator Domenici: The fiscal year 1990 budget includes proposals to reprogram fiscal year 1989 funds from Alcohol Law Enforcement and Compliance Operations to Firearms Law Enforcement and Compliance Operations. I would like to point out that any proposed fiscal year 1989 reprogramming action, even if submitted in the President's fiscal year 1990 Budget, requires the approval of the House and Senate Appropriations Committees. Even though the Committee's affirmative action is required, in the Bureau's particular case, we have notified you of our disapproval of these fiscal year 1989 reprogrammings.

However, for our further consideration, I would appreciate a more detailed explanation of one of the fiscal year 1989 reprogramming actions proposed, i.e., the proposal to redirect $6.965 million from the non-pay to the pay object classifications. The fiscal year 1989 Appropriations Act (P.L. 100-440) requires the Bureau to maintain a base level of 3,701 full-time equivalent positions for fiscal year 1989, of which no fewer than 543 full-time equivalent positions shall be allocated for the Armed Career Criminal Apprehension Program. Is the $7 million reprogramming proposed needed to meet this statutory staffing requirement or will the Bureau be able to maintain a base level of 3,701 full-time-equivalent positions during fiscal year 1989 without it?

Mr. Higgins: The proposed reprogramming of funds from non-pay to pay object classes would ensure sufficient salary and benefit funds are available to reach the 3,701 FTE floor.

TRANSFER OF RESOURCES

Senator Domenici: The fiscal year 1990 request reflects the transfer of 19 full-time equivalent positions and $905,000 in funds to the new Treasury statutory Inspector General's office, and the transfer of $8,612,000 to the Department of Justice for the 128 full-time equivalent Bureau positions associated with the Organized Crime Drug Enforcement Task Force (OCDETF).

What number of positions and amount of funding is currently required to perform the Bureau's internal audit functions?

Mr. Higgins: Currently, fifteen (15) full-time positions and a funding level of $804,000 are required to perform the Bureau's Internal Audit function.

Senator Domenici: With respect to the required transfer of funds for the Organized Crime Drug Enforcement Task Force, what assurances do you have that the Justice Department will fully reimburse the Bureau for these 128 full-time equivalent positions in fiscal year 1990?

Mr. Higgins: The Department of Justice has advised ATF that the 128 FTE positions and the $8.6 million allocated to us has been submitted to OMB as part of the Department of Justice Interagency Law Enforcement Organized Crime Drug Enforcement budget estimates for fiscal year 1990. We are in the process of establishing a reimbursable agreement with the Justice Department to assure that ATF is fully reimbursed.

ARMED CAREER CRIMINAL PROGRAM RESOURCES

Senator Domenici: How many full-time equivalent positions are being allocated for the Armed Career Criminal Program in fiscal year 1989?

Mr. Higgins: For FY 1989 we have 543 full-time equivalent positions allocated for the Armed Career Criminal Program.

Senator Domenici: What is the fiscal year 1989 level of funding for the Armed Career Criminal Program?

Mr. Higgins: The fiscal year 1989 level of funding for 543 FTEs is $36.3 million.

Senator Domenici: What number of FTE positions and level of funding is included for the Armed Career Criminal Program in the Reagan fiscal year 1990 Budget request?

Mr. Higgins: A total of 567 FTEs and $39.7 million has also been included in the President's fiscal year 1990 budget request.

ARMED CAREER CRIMINAL PROGRAM IMPACT

Senator Domenici: How many of those persons apprehended under the Armed Career Criminal Program in fiscal year 1988 were involved in illegal narcotics trafficking?

Mr. Higgins: During fiscal year 1988, 84 percent or 515 of 615 of those persons apprehended under the Armed Career Criminal Program were involved in illegal narcotics trafficking. Since the inception of our Armed Career Criminal Program, 403 defendants have been convicted and sentenced under the enhanced and mandatory sentencing provisions of the Armed Career Criminal Act.

Senator Domenici: What has been the conviction rate under this Program?

Mr. Higgins: Current criminal statistics indicate that we are experiencing a 90 percent conviction rate under this program.

SPECIAL OCCUPATIONAL AND EXCISE TAX ADP EQUIPMENT

Senator Domenici: Of the funds appropriated to the Bureau for fiscal year 1989, up to $2.5 million was made available for the purchase of automated data processing equipment necessary for Special Occupational and Excise Tax processing. Would you please tell us the amount of funds which will actually be required for this purpose, and what your current schedule is for acquisition of this equipment?

Mr. Higgins: Funds in the amount of $2.5 million have been appropriated for FY 1989 for automated data processing equipment. At the conclusion of an in-depth requirements analysis in September 1989, we will be better able to address future requirements.

The current schedule for acquisition of this equipment is:

Acquisition Phase	Completed By
Preliminary requirements analysis (a review of requirements and development of detailed implementation and management plan)	March 1989
In-depth requirements analysis to specify Bureau needs for the next five years	September 1989
Request For Proposal	October 1989
Contract Awarded	June 1990
System Installation	September 1990

BUREAU FACILITY COMPLETION

Senator Domenici: Of the funds appropriated to the Bureau for fiscal year 1989, $300,000 was made available for the development and implementation of a secure communications and intelligence facility for the Bureau. What is your current schedule for completion of this facility and will this $300,000 be obligated by the end of fiscal year 1990?

Mr. Higgins: ATF is currently working with the General Services Administration (GSA) to obtain "swing space" for ATF while the Ariel Rios Building is undergoing renovations for the next several years. Since we would not be occupying the building for an estimated 5 years, we decided to build the Secure Communications and Intelligence Facility (SCIF) in the new space. GSA has, at this time, been involved in negotiations with the temporary building lessors to complete this space procurement in "turnkey fashion."

One of the pressing concerns continues to be the special requirements essential to ATF's operation that needs to be met by the prospective lessor. Among these are the special heating, ventilating, and air conditioning needs and the enhanced security requirements for electrical, computer, and telephone operations the SCIF requires. These needs have been explained to GSA.

We currently anticipate that we will move into the swing space in the fall of 1989. However, no contract has yet been signed for the space. This has prevented ATF, through GSA, from moving ahead with SCIF construction. In the meantime, we have coordinated our SCIF plans and needs with the Department, and met with a SCIF contractor. We expect that the construction of the SCIF will be concurrent with the completion of the new building and funds will be obligated during FY 1990.

ORGANIZED GANGS

Senator Domenici: The Bureau has played a significant role in combatting the problem of organized gangs. I understand organized gang activity has spread into the Chairman's state and it is likely that it will spread even further. Has there been any evidence of organized gang activity in New Mexico? If Phoenix, AZ., is now experiencing a problem, isn't it likely that the gang-related problems will spread to other major metropolitan areas in the Southwest?

Mr. Higgins: The Crips and Bloods have established narcotics street trafficking organizations in New Mexico. ATF has encountered numerous other street gangs similar to the Crips and Bloods whose membership consists of teenagers and young males in their early twenties.

At this time, there have been isolated arrests of Los Angeles gang members in Phoenix. Moreover, numerous joint State and local task forces in which ATF is participating have recently been formed to address this problem. The task forces have just become operational, and it is too early to gauge the severity of the problem.

Senator Domenici: Are you assisting State and Local Law Enforcement efforts not only to combat organized gang activity, but to help them take preventive steps to keep such activity out of their jurisdictions? For example, there is a local organized crime unit in Albuquerque, has the Bureau worked with this unit at all?

Mr. Higgins: ATF is very active with various organized crime units in Albuquerque, New Mexico. ATF has three special agents assigned to the DEA Metro Task Force which consists of Federal, State, and local law enforcement agencies, to include the Albuquerque, New Mexico, Police Department Organized Crime Unit.

ATF is involved in training State and local law enforcement officers on the methods of operation used by Jamaican Posses and the Crips and Bloods, which will allow officers to be more efficient and effective when dealing with gangs.

ATF co-sponsored a National Jamaican Organized Crime Conference in FY 1988 and will co-sponsor another conference in FY 1989. These conferences enable Federal, State, and local law enforcement officers to increase their effectiveness in their investigations of the Posses, and continue to promote a closer working relationship among all law enforcement personnel.

ATF also is continuing a semi-annual publication of intelligence booklets on Jamaican organized crime. An intelligence booklet on the Crips and Bloods will soon be ready for dissemination. These booklets contain up-to-date trends and information/intelligence on their activities.

Additionally, we have given presentations on the Jamaican posses to Federal, State, and local law enforcement officers throughout the United States.

FEDERAL ALCOHOL ADMINISTRATION ACT AMENDMENTS

Senator Domenici: The Administration is proposing to submit amendments to the Federal Alcohol Administration Act. Do you know what changes are being proposed and what impact they will have on the Bureau's responsibilities?

Mr. Higgins: The purpose of the amendments would make the FAA Act more administratively cost efficient, while

retaining an adequate level of Federal oversight of the alcohol industry. The FAA Act can be amended to permit alcoholic beverages to be introduced into the marketplace without prior approval of the product's label. ATF would continue to issue regulations and guidelines concerning proper labeling and/or advertising requirements.

If a compliance question were to arise regarding a label or advertisement, ATF would use its investigatory powers to ensure that the product complies with the legal standards.

It may also be possible to allow the alcohol industry to assume some responsibility for establishing non-discriminatory standards for entrants to the industry, as is done in other professional sectors.

One ground rule for the FAA Act Amendments is that they would not reduce the amount of excise tax collected, nor would they expose consumers to greater risk of contamination.

ALCOHOL HEALTH WARNING LABELING

Senator Domenici: The Anti-Drug Abuse Act of 1988 requires alcohol health warning labeling. What will be the impact of this new requirement on the Bureau's workload?

Mr. Higgins: The impact on the Bureau has been, and I suspect will continue to be, significant since the whole issue of warning labels is a sensitive one.

We anticipate continued interest and inquiries from those who support health warning labeling and those who do not. ATF recently issued temporary regulations along with a notice of proposed rulemaking for final regulations.

We will inform industry and others of the new labeling requirements by: developing guidelines for bottlers and importers to follow, holding seminars and meetings with industry groups, and issuing press releases.

We intend to provide training and internal guidelines for use by ATF Headquarters employees when they examine label approval requests and for field employees when they conduct inspections at premises of bottlers and importers.

One of the difficult compliance issues facing us involves the requirement that the health warning statement must appear on the labels of all alcoholic beverages bottled on or after November 18, 1989, which are sold or distributed in the United States. (November 18, 1989, is the date of mandatory compliance with the new statute.) We anticipate difficulty in determining

the date of bottling for some domestic products and most imported products because that information is not usually shown on product containers. We, therefore, have included a provision in the temporary rules that bottlers and importers, if requested by ATF, must produce documentation evidencing the bottling date. In the case of imported products, the documentation might include a certificate of bottling date issued by an agency of the foreign government.

Another area of concern facing us involves confusion on the part of industry as to the applicability of the new statute. For example, under the new law, wine products between one-half of one percent to seven percent alcohol by volume must comply with the health warning requirements; however, under existing law (the Federal Alcohol Administration Act - Title I) wine products in this alcohol range are exempt from ATF labeling requirements. Therefore, bottlers and importers will have to ensure that wine products in this alcohol range have the health warning statement; but they do not have to obtain label approval as they would if the wine product contained seven percent alcohol or more.

A-76 SAVINGS

Senator Domenici: The fiscal year 1990 request includes A-76 savings resulting in a reduction of 27 FTE positions and $227,000. Is this a realistic savings estimate?

Mr. Higgins: The A-76 savings projection is based on a formula that allows agencies, employees and taxpayer to share in the potential savings from the program.

Senator Domenici: What specific actions will be taken to achieve this savings?

Mr. Higgins: We are working with the appropriate offices at OMB and Treasury to determine those areas that could be considered for study. ATF will make every attempt to realize the projected savings in FY 1990.

PERSONNEL PAY AND BENEFIT COSTS ABSORPTION

Senator Domenici: What is the level of funding associated with personnel pay and benefit costs which the Bureau will be required to absorb under the fiscal year 1990 funding request?

Mr. Higgins: A 4.1 percent civilian Federal personnel pay increase was approved effective January 1, 1989. The civilian pay increase was absorbed within the FY 1989 appropriation, as required under P.L. 100-440, section 526. In FY 1990, the Office of Management and Budget approved $1,428,000 for the annualization of this

pay raise. However, a total of $5,712,000 is required to fully fund this pay raise in FY 1990.

ALCOHOL COMPLIANCE REDUCTION

Senator Domenici: The fiscal year 1990 request proposes a reduction of 163 FTE and $10 million in funding from the fiscal year 1989 appropriated level for Alcohol Compliance Operation activities. The justification indicates that these reductions will be made in non-revenue producing subprograms. Is it possible to make such reductions in Alcohol Compliance activities without affecting revenues?

Mr. Higgins: Sufficient resources would be available to perform SOT and excise revenue collection activities. One ground rule for the FAA Act amendments is that they would not reduce the amount of excise taxes collected.

WAR ON DRUGS

Senator Domenici: How many FTE positions and what amount of funding is the Bureau currently allocating to the Nation's war on drugs?

Mr. Higgins: During Fiscal Year 1989, the Bureau estimates expending $7.6 million for ATF's direct participation on the Organized Crime Drug Enforcement Task Forces (OCDETF). An additional $1.2 million is anticipated to be used for direct program support. We expect to expend a total of 118 FTEs for OCDETF in FY 1989.

Senator Domenici: What resources are included in the fiscal year 1990 budget request to combat this Nation's illegal drug problem?

Mr. Higgins: During FY 1990, the Bureau will transfer 128 FTEs and $8.6 million to the Department of Justice for inclusion in the consolidated OCDETF budget.

OCCUPATIONAL TAX ON SMALL PRODUCERS

Senator Domenici: Section 10512 of the Omnibus Reconciliation Act of 1987 imposes an occupational tax on small wine producers and proprietors of distilled spirits plants. The tax varies depending upon gross receipts. If gross receipts are $500,000 or more, the tax is $1,000. If gross receipts are less than $500,000, the tax is $500. This two-tier system is causing problems for small wineries.

How much revenue has been raised as a result of this tax?

Mr. Higgins: Our SOT collections and related compliance activities are producing very positive results. Total SOT collections during FY 1988 were

$128 million, including a one-time collection of $35 million. Of that total, revenues from delinquent SOT payers amounted to $6 million. In FY 1989, SOT collections through the end of February were $16.7 million, almost all of which were collections due to our various compliance programs. By the end of FY 1989, we expect to collect in excess of $110 million.

Senator Domenici: In New Mexico, two small wineries have closed as a result of this tax. Do you know how many wineries in other states have closed?

Mr. Higgins: While we have heard that some small operations have closed as a result of this tax, we have no hard evidence to establish that the SOT increase was the single, total cause in those situations. As a matter of fact, during the past year when SOT rates were raised, the number of wineries actually increased. As of October 1, 1988, there were 1,518 wineries qualified to operate in the United States. As of the previous October 1, there were 1,453 wineries in operation. The fact that some operations have discontinued business may be the result of other economic conditions, such as reduced consumption patterns within the alcoholic beverage industry.

Senator Domenici: BATF is currently exempting experimental ethanol producers from this tax; how do you feel about exempting experimental wine producers as well?

Mr. Higgins: Experimental distilleries and breweries must pay the new SOT. However, excise statutes do not define experimental wineries as a "winery", therefore they are exempt from paying these new taxes.

Questions Submitted by Senator D'Amato

ARMED CAREER CRIMINALS

Senator D'Amato: What kinds of criminals and organized criminal groups are susceptible to the Armed Career Criminal statutes?

Mr. Higgins: Those criminals who have been convicted of three previous violent or narcotics trafficking-related felony offenses are vulnerable to the armed career criminal statutes. Organized crime groups such as outlaw motorcycle gangs (Hells Angels), ethnic street gangs (Crips and Bloods), and traditional organized crime groups (Mafia) are highly susceptible. Past history has reflected that several members of each of these entities are career criminals with lengthy criminal records that include numerous violent or narcotics trafficking offenses.

Senator D'Amato: What are the benefits for local law enforcement and the reduction of street crime resulting from putting repeat offenders, armed career criminals, and violators of 18 U.S.C. 924(c) and (e) behind bars for long periods of time?

Mr. Higgins: The incarceration of repeat offenders for long periods of time could foreseeably have a marked effect in decreasing local crime. Several law enforcement studies indicate that 6 percent of the criminals arrested in the United States committed 70 percent of the serious crimes. It is this chronic offender who is involved mostly in narcotics trafficking, robberies, and burglaries; which are all violent offenses. The most significant benefit derived for law enforcement through the incarceration of repeat offenders is that the likelihood of encountering armed and violence-prone offenders has been reduced. The safety of the public and law enforcement officers will definitely be enhanced with the reduction of the number of Armed Career Criminals on the streets.

PROJECT ACHILLES

Senator D'Amato: How many special agents do you have committed to Project Achilles?

Mr. Higgins: Presently, we have 258 special agent FTEs committed to Project Achilles. Current plans call for a total of 347 special agent FTEs to be committed to Project Achilles by the end of FY 1989.

NEW CRIME GROUPS

Senator D'Amato: What new and emerging crime groups is ATF directing its resources to?

Mr. Higgins: ATF is directing an enormous amount of resources at new and emerging crime groups known as the "Jamaican posses", the "Crips and Bloods", and other street gangs. ATF is involved in numerous enforcement actions. In particular, ATF agents are active in 40 State and local task forces concentrating on Jamaican Posses. In this effort, a Jamaican data base has been established to provide a central location for processing and disseminating intelligence on these individuals and their criminal activities.

ATF is also involved in joint Federal, State, and local Crips and Bloods investigations in 14 cities. To assist with the monitoring and tracking of the Crips and Bloods street gangs, ATF recently obtained access to the Los Angeles Sheriff's Department's Gang Reporting, Evaluation, and Tracking System (GREAT). This computer system allows users to access between 50,000 and 60,000 records on individuals associated with various gangs.

Senator D'Amato: In these investigations, what resource and other needs are most pressing?

Mr. Higgins: Currently, 295 ATF special agents have been issued the new 9mm semiautomatic pistol as their primary duty firearm. By the end of calendar year 1989, a total of 1,000 such 9mm pistols will be issued to ATF special agents (at a cost of approximately $500 per weapon) as their primary duty firearm.

Senator D'Amato: Please comment on the adequacy of ATF's manpower, language training, computers, communications equipment, ability to analyze leads and other information received, and intelligence received from other agencies.

Mr. Higgins: As stipulated by the Anti-Drug Abuse Act of 1988, ATF will transfer 128 FTEs and $8.6 million to the Department of Justice (DOJ) in FY 1990, which will be reimbursed to ATF by DOJ. We will continue to monitor our participation in OCDETF investigations and will devote additional manpower as funding permits.

As many of the crime groups include members who speak a foreign language as their first language, our recruitment effort continues in the area of minority hiring in an effort to attract applicants with bilingual skills.

ATF continues to receive large amounts of information, which is computerized, analyzed, and disseminated to all levels of law enforcement, both domestic and foreign.

ATF is at the 80 percent operational level with our Data Encryption Standards (DES) voice privacy communications systems. It is anticipated that it will take approximately 2 more years for the system to become fully operational.

REPEAT OFFENDERS

Senator D'Amato: Each area of the country seems to have different criminal groups and organizations, and law enforcement problems that are unique to it. What is ATF doing to target violent repeat offenders who acquire firearms or are in possession of them?

Mr. Higgins: Suspects of Armed Career Criminal Act violations or violent repeat offenders are identified and targeted through various investigative techniques. One such technique is the development of reliable informants who are able to infiltrate the criminal element and provide information on those who violate Federal firearms laws. Another viable and important technique is the receipt of intelligence from other law enforcement agencies. Probably the best technique is the establishment of task forces which combine the

techniques described above to target individuals who are vulnerable to the Armed Career Criminal Act.

At the present time, all of our 22 law enforcement districts across the United States are participating in Project Achilles, our repeat offender program. Several of our districts have established both formal and informal task forces consisting of local, State, and other Federal law enforcement agencies, which jointly conduct investigations involving those individuals who are identified as armed career criminals or use firearms while trafficking in illicit narcotics. Those districts that do not have the manpower to adequately maintain task forces have dedicated agents to target and investigate potential Project Achilles violators.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

STATEMENT OF CHARLES F. RINKEVICH, DIRECTOR

ACCOMPANIED BY:

R.J. MILLER, DEPUTY DIRECTOR
WILLIAM M. KELSO, ASSISTANT DIRECTOR, ADMINISTRATION
JOHN C. DOOHER, ASSISTANT DIRECTOR, WASHINGTON OFFICE
DENNIS STATON, COMPTROLLER
DAVID NUMMY, ACTING ASSISTANT SECRETARY FOR MANAGEMENT, DEPARTMENT OF THE TREASURY

INTRODUCTION OF WITNESS

Senator DECONCINI. Our final panel this morning is the Federal Law Enforcement Training Center. We are delighted to have Mr. Charles Rinkevich testifying on behalf of the Center's fiscal year 1990 budget request.

Would you like to introduce your people and proceed to summarize your statement?

Mr. RINKEVICH. I would be pleased to, Mr. Chairman. On my right is Joe Miller, who is our Deputy Director. To his right is William Kelso, who is our Assistant Director for the Office of Administration. To his right is John Dooher, who is our Assistant Director here in Washington. And to his right is Mr. Don Schwartz, who is from our Office of General Training.

To my left is the comptroller of the Center, Dennis Staton.

I do have a statement which I would like to enter into the record.

Senator DECONCINI. Without objection, it will appear in the record.

Mr. RINKEVICH. Also with your permission I would make just a couple of observations and do it as briefly as I can, recognizing the time constraints that you are under.

FISCAL YEAR 1990 BUDGET

The fiscal year 1990 budget that we have submitted to you requests slightly more than $44 million in appropriations, and when added to slightly more than $16 million in reimbursables, which we anticipate receiving for certain services that we provide to our agencies, results in a total operating budget of over $60 million for 1990.

WORKLOAD

The workload at the Center continues to grow. In fiscal year 1988 we realized a 16-percent increase in students trained as compared to fiscal year 1987. In fiscal year 1989 we expect to train 87 percent more students than in 1987. In fiscal year 1990 we anticipate that

the increase will be even greater than the number of students trained in fiscal year 1982.

EMERGENCY FACILITY EXPANSION

Because of this growth, we have had to do a number of extraordinary things at the Center to temporarily enhance our facility. We purchased temporary trailers for classroom and office use; we have created satellite dining facilities; and used off-Center housing to house the students we cannot house at the Center.

The Center also had an extraordinary request this past year that involved additional training for the Border Patrol. It exceeded what the Center could accommodate in the timeframe requested. A temporary satellite facility was opened for training Border Patrol officers at Fort McClellan, AL. That facility is now closed, and the Center graduated 360 students.

CONSTRUCTION PROJECTS

In fiscal year 1986 we were authorized funds for construction of a new dormitory. The dormitory is nearly complete and a dedication ceremony is planned on April 7.

CONSTRUCTION

In fiscal year 1989 we were authorized $20 million for construction purposes. I can report to you today that we have committed all of those dollars to specific projects and construction/renovation will begin within the next several months.

We also were authorized in fiscal year 1988 $200,000 to prepare a master plan for the Glynco facility. That master plan is essentially complete. It recommends three phases. The first phase of that master plan would be to construct facilities to take care of the expansion, to replace the temporary facilities that we have had to put into place to take care of the immediate and near-term workload. The second phase of that master plan addresses the reconfiguration of our facilities and functions to provide more efficient operation. The third phase of that master plan actually would implement the necessary facilities that would expand Glynco and Marana and Arizona to account for the increased projected workload.

ARTESIA OPERATIONS

The purchase of the Artesia College as a law enforcement training facility is proceeding and we anticipate the transfer of the college to the Center to be completed on April 1. The Center anticipates training to begin late summer or early fall, depending on how quickly our contractors can do the rehabilitation.

MARANA LEASE

I should also report, Mr. Chairman, that the Center still is very much alive and well at our Marana facility and we anticipate entering into negotiations shortly with the Evergreen Air Center firm that leases that facility to us so that we may continue our operation there. The Center has not yet entered into negotiations with

them since we are waiting for them to respond to the lease proposal that was sent to Evergreen previously.

CLOSING

With those brief summary points, let me say thank you for your continued support and invite your questions.

Senator DECONCINI. Mr. Director, thank you very much.

MARANA OPERATIONS

It is my understanding that training at Marana is about at its maximum capacity. In your present negotiations there, do you anticipate any expansion of what you are doing now, assuming you renew the lease?

Mr. RINKEVICH. The expansion of Marana has been carefully controlled because it is a leased facility. We have been careful not to invest significant capital dollars in this leased facility. We do have plans, depending on the workload growth to expand the Marana facility. The Center has a list of several hundred thousand dollars' worth of building enhancements that we would want to undertake if the workload should grow.

One of the things that is critical to us is that in the negotiations with Evergreen Air Center, we want to be sure that as we invest the Government's funds in facility expansion that we get a return relative to the lease costs.

Senator DECONCINI. How long a lease are you asking for?

Mr. RINKEVICH. Well, we have proposed a lease for 5 years.

Senator DECONCINI. What are the problems with the lease, just out of curiosity?

Mr. RINKEVICH. Frankly, from our standpoint, there are no problems. We have been frustrated because we presented that proposal to Evergreen Air Center in April 1988. As you know, we have been trying very hard to start negotiations since that date. I believe the problem is a result of confusion and constant change that occurs in their management structure.

Senator DECONCINI. You mean their personnel changes are affecting their ability——

Mr. RINKEVICH. Yes, sir.

Senator DECONCINI [continuing]. To make this decision right now.

Mr. RINKEVICH. This is our conclusion. They have had a number of changes in their senior managers at the Marana facility. I believe they have had five people in 4 years that have been in charge of the facility.

Mr. MILLER. Our latest meeting with them was last week and we were unsuccessful in making any progress.

Senator DECONCINI. What is your timetable? Do you know, when you have to have the lease signed? What are you going to do to meet your timetable?

Mr. RINKEVICH. Well, our lease expires at the end of this fiscal year, which is September 30, 1989. We are anxious to get negotiations moving on a new lease.

Senator DECONCINI. I know, but what is your timetable if you do not get a lease, as far as having to make some alternative plans?

Mr. RINKEVICH. Well, we are anticipating that we will come to an arrangement at Marana.

Senator DECONCINI. You are planning on staying there——

Mr. RINKEVICH. We are planning on staying there.

ADVANCED FIREARMS TRAINING

Senator DECONCINI. As you may recall, Mr. Rinkevich, language was included in the 1989 Treasury appropriation bill directing FLETC to formulate a plan to construct an advanced firearms training center. You know the history of this as well as I do. Where are you on the development of an advanced firearms training center? Do you think you will be able to develop a plan which will accommodate the needs of the Customs Service and other agencies?

Mr. RINKEVICH. I believe we will be able to accommodate the advanced training needs of Customs as well as several other agencies. We have given to our master plan developer the concept as we envision it. It is based on information obtained from the agencies which are interested, principally Customs. They have incorporated this information in terms of site planning and have developed the necessary preliminary costs in order to begin construction.

We are negotiating with the Customs Service regarding what the actual scope of the advanced firearms training facility to meet their needs. Of course, one of the things that we are most concerned about is that the advanced firearms facility be usable by other agencies. The strength of the Center is that we can share common resources.

We are also prepared to make some interim accommodations for those agencies, such as Customs and others who have advanced firearms training needs that we cannot handle at Glynco, until we expand our facility.

Senator DECONCINI. What is the cost for the advanced firearms training center?

Mr. RINKEVICH. That is uncertain at this point. We are anticipating in our master plan that it will cost less than $4 million.

Senator DECONCINI. Do you have any money in the 1990 budget request for this purpose?

Mr. RINKEVICH. We have funds in the 1989 request that will be spent on expanding the firearms facility that could be used for that purpose. But in 1990 there are no funds specifically identified for the expansion of our firearms facility.

Senator DECONCINI. Why is that? Because you do not have a plan put together yet? Or did OMB cut it out. Did you ask for it?

Mr. RINKEVICH. Well, I do not think it is fair to say that OMB cut it out. Our master plan was being prepared at the same time that we were submitting our budget for 1990. The development of the cost for the advanced firearms facility was not completed by the master plan developer until after the budget process had already taken its course.

Senator DECONCINI. So if you were going to get into it, you are talking about another year's delay here?

Mr. RINKEVICH. In the normal budget course, that is correct.

Senator DECONCINI. Unless you had some funds you could reprogram or use from some other area, and you do not anticipate that at this time, do you?

Mr. RINKEVICH. No.

DEA TRAINING

Senator DECONCINI. It is my understanding, too, that Quantico will no longer be able to accommodate the advanced training requirements of the Drug Enforcement Administration. Have you had any discussions with the DEA about their training needs? Is this something that could be provided for at FLETC?

Mr. RINKEVICH. The answer to the second part of your question is, absolutely. Not only can we provide for this training, but I think we should. We have had preliminary discussions with DEA and we are awaiting the opportunity to engage in more detailed discussions. In effect, we have invited them to provide us with an understanding of what their training needs are so that we can begin to develop what would be needed to meet their training needs and how we would best accomplish these requirements. We are waiting for DEA to provide us with that information.

Senator DECONCINI. When are they going to do that?

Mr. RINKEVICH. There have been a number of meetings scheduled, but they were canceled by DEA because of their schedule. So we are waiting for them. It is difficult for us to force them to come to us.

Senator DECONCINI. Of course it is. But I understand that they are also looking at setting up their own training center.

Mr. RINKEVICH. That is our understanding. We want to start detailed discussions with DEA to avoid this, because we believe we can handle their training needs. It would be a mistake for another training facility to be created when, with some expansion at Glynco, we can handle the increased training.

Senator DECONCINI. Is it your understanding that June or July is the date that they have to stop——

Mr. RINKEVICH. Senator, I do not know what their timetable is. I have never been privy to that. We have extended an invitation on a couple of occasions to meet with Center staff. Now we are waiting for them to sit down with us, to tell us what they need, and to determine what the Center can do.

Senator DOMENICI. Mr. Chairman, would you yield on that?

Senator DECONCINI. Certainly.

APPROPRIATION LANGUAGE

Senator DOMENICI. Is it not right that, as to DEA, we have provided in statute that they are not to construct their own facility?

Mr. RINKEVICH. Yes, sir; we have advised them of this language.

Senator DOMENICI. Now, obviously, Mr. Chairman, it seems to me that we are doing the work of the Secretary of the Treasury, at least the last one, who wanted to make sure we consolidated and did not spread all over. It seems to me that you have to take it seriously or we will be put in a position where we say do not do it and we are not ready to do it. So I would hope that we would do everything to make that statute work.

Mr. RINKEVICH. Senator, when we became aware that DEA was in fact looking for an alternative site, because it is simply too crowded at Quantico, we did two things. First, we expressed an interest in accommodating those needs. Second, we informed them of this language in the general provisions of the fiscal year 1989 appropriations bill which prohibits any agency from launching out on its own unless the agency comes back to this committee and also the House committee. We now are waiting for the invitation to be accepted.

Senator DOMENICI. Thank you, Mr. Chairman.

INCREASED TRAINING FOR DEA

Senator DECONCINI. If DEA comes to you and says, by gosh, this year we have got to move by June or July, and we have got to have this training capability, would you be able to accommodate them?

Mr. RINKEVICH. I cannot answer that at this time, Senator. If the current workload identified by our agencies stayed the same and DEA had an increased workload that was of significant dimension, we would have to consider some alternatives. However, I should point out that we have been able to do that in the past. For example, we utilized Fort McClellan, as a temporary training facility in order to accommodate a request from the Border Patrol for increased training this year.

Senator DECONCINI. You would find something.

Mr. RINKEVICH. I cannot guarantee that we will find another temporary training site, but we will do our level best to accommodate DEA's training needs. The Center is firmly committed to the idea that consolidated training is the best way to go.

Since DEA has not informed us as to their workload needs, it is difficult for me to project whether we could accommodate them.

Senator DECONCINI. Were you here for Director Simpson's and Director Higgins' testimony?

ENTRY LEVEL SALARIES

Mr. RINKEVICH. I heard Director Higgins' testimony, but I did not hear Director Simpson's.

Senator DECONCINI. We talked about entry level salaries. Director Simpson said he has really got a near crisis on his hands. It used to be that 3 percent of his people were leaving. Now it is, I think he said, three times that. And it is not just retirements. Do you have any experience with that same problem?

Mr. RINKEVICH. I cannot give you any percentages of attrition rates for the various agencies that we train.

Senator DECONCINI. I am only talking about your own agency.

Mr. RINKEVICH. There is an impact on our agency, very definitely, Senator. The bulk of our instructional staff comes from the agencies that we train. When the agencies are having difficulty in retaining qualified people, it has an indirect impact on our ability to obtain instructors for the Center. These instructors come to the Center either on detail or they are recruited at some stage in their career. So the problem that we confront is a second-hand version, if you will, of the initial problem that they confront.

Another part of that problem is that the workload is increasing because we are training more basic students as a result of the attrition factor. Those figures I could get for you if you are interested, but I do not have them at hand. It is the opinion of the Center that that attrition rate is increasing. I would presume that Director Simpson is correct and the reason it is creeping upward is the difficulty in retention.

MINORITY EMPLOYEES

Senator DECONCINI. I want to change the subject slightly.

About those people that you get from the agencies, you do not have any say as to minority assignments or detailees, do you? They just send them to you, is that correct?

Mr. RINKEVICH. That is correct. There is a collaborative process in the selection of all employees.

Senator DECONCINI. As to the people that you hire yourself, I will submit some questions to you asking you to break down what your minority hires are at FLETC.

Mr. RINKEVICH. I would be pleased to answer them.

Senator DECONCINI. I want information comparing last year to how you are doing now.

Mr. RINKEVICH. We have tried very hard in the last several years to reinvigorate our outreach programs for minority applicants. I think that we have done some interesting things and would be pleased to respond to your question later.

Senator DECONCINI. Without objection, that will be included in the record.

[The information follows:]

SENATOR DECONCINI: What is the percentage of minorities employed by the Center? Provide a breakdown by race for FY 1984 through FY 1989. What are you doing to recruit minority employees and are you encountering any obstacles?

MR. RINKEVICH:

FISCAL YEAR	AMERICAN INDIAN/ ALASKAN NATIVE	ASIAN OR PACIFIC ISLANDER	BLACK	OTHER HISPANIC ORIGIN	% OF TOTAL EMPLOYEES
1984	1%	0	5%	1%	7%
1985	1%	0	4%	2%	7%
1986	1%	0	5%	1%	7%
1987	1%	0	4%	2%	7%
1988	1%	0	6%	2%	9%
1989	1%	0	7%	3%	11%

In addition, the Center has 116 white females, which amount to 31% of the employees. In total, minorities, including white females, account for 42% of the Center's employment.

To help recruit minority employees, the Center has established an EEO Committee to analyze potential methods of increasing minority representation. The primary goal of this standing Committee is to recruit qualified minorities through a results-oriented program of equal employment opportunity and to ensure that recruitment activities are designed to reach and attract job candidates from all segments of the population. We have developed a "Career Opportunities at FLETC" brochure which Center Staff distributes at several conventions including: National Sheriff's Association Conference, the International Association of Chiefs of Police Conference, the National Association of Black Police Officers Conference, and the International Association of Women Police Conference. These contacts are intended to increase the number of minorities in our instructor and other higher paying positions.

Additionally, because we recruit heavily from the Center's participating organizations, we are very dependent on their success in hiring minorities.

ARTESIA FACILITY

Senator DECONCINI. The Senator from New Mexico.

Senator DOMENICI. Thank you very much, Mr. Chairman.

Let me say to all of you in behalf of the Artesia facility to this point, we want to thank you for not only what you are doing but from the standpoint of your personal relations with the community, which I think are very important at the offset. I have heard nothing but compliments about the attitude and the working together. I hope that will continue.

I hope you will feel comfortable in bringing any problems to us that you run into because it is new. We will be glad to work with you and with the chairman.

In the fiscal budget that we are working in now, we had $7 million appropriated for the acquisition and renovation of that site. Do you have a breakdown on how these funds are going to be spent?

Mr. RINKEVICH. Yes; I do, Senator. Of the $7 million, we are going to use a portion of that, about $1.3 million, to purchase the facility.

Senator DOMENICI. Right.

Mr. RINKEVICH. A portion of the money is being used to reimburse the city for doing some facility enhancements in advance of actually transferring title to the Center.

We are going to be doing paving. In fact the city has already done some paving. All of the buildings on the facility need to be completely reroofed and we will handle that. We will be investing about one-half of a million dollars in what has been the dining hall, which now will become a dining hall/student union complex with a convenience store and post office and the other typical kinds of student services. A security system for the front gate and administration building will be installed which will cost over $500,000. Part of our security system will include fencing.

There is a major problem at the facility in regard to asbestos, so we are spending a fair amount of money to clean that out. Then we are going to be investing slightly less than $1 million in physical training facilities, about three-quarters of a million dollars in firearms facilities, and training equipment will consume about one-half of a million dollars.

BASIC TRAINING

Senator DOMENICI. Might I ask, will you be doing any basic training at Artesia, or do you intend to use this only for reimbursable training?

Mr. RINKEVICH. Our plan, Senator, is to bring the facility on line ultimately to accommodate advanced training. That means that we will construct some special training facilities at Artesia for firearms, driver, and physical training. With these capabilities, the facility could be available for basic training if necessary. Frankly, we feel that there will be enough advanced training requirements that we will not do any basic training there unless we confront the kind of situation that the chairman previously has outlined. If an agency states they need to have a large number of basic students trained which Glynco could not handle, then we would move a portion of the basic training to Artesia.

TRAINING AT ARTESIA

Senator DOMENICI. When do you expect to start training, and how many students do you think there might be in fiscal year 1990?

Mr. RINKEVICH. The training is projected to begin the latter part of this summer, hopefully, early fall. However, this is dependent on whether the renovations for the training facility, which I outlined earlier, are completed in a timely fashion. It has been our experience that contractors do not always complete projects on time. Certainly by the beginning of next fiscal year training should commence at Artesia.

At this point we are still in the process of identifying the agencies that will want to send students there. At this time also, we have a commitment from the Immigration and Naturalization Service. They were one of the initial agencies interested in the Artesia facility. They have a 1990 projection of about 2,500 students which converts to an average resident student population of over 100 students. The capacity of the facility, of course, is 300. Without even testing the market, one-third of the capacity at Artesia has already been committed to the Immigration Service. We have a number of other agencies that also have expressed an interest. They are the Department of State, Customs Service, and the Federal Aviation Administration. Frankly, I believe once the facility is running, that over the course of the year, we will not have much trouble in making maximum use of it.

AIRLINE TRANSPORTATION

Senator DOMENICI. I hear, while it has only been generalized by you early on and now by local community, that transportation into the area is a problem. Does that remain a problem?

Mr. RINKEVICH. Yes, sir; I think it will be a problem. And it is a problem at this time. I am told that the local officials in concert with our assistant director out there have had conversations with one of the airlines. I think we have had some indication that they are interested in providing some service. If that problem can be overcome, this will improve the situation.

This was initially a problem at Glynco also, and it was used as a reason for some agencies not to be part of consolidated training. We are determined that we will make this a first-class facility and make transportation to Artesia just as easy as it is now at Glynco. Sometimes it is still a little inconvenient to get in and out of Glynco, but when you get there it is well worth the effort. We want to see that same thing happen at Artesia.

Senator DOMENICI. Could I ask then, is there anything that the State of New Mexico or the community ought to be doing that they are not doing, in your opinion, with reference to the original bargain and the expected cooperation and accommodation?

Mr. RINKEVICH. I have never seen in my experience, and not to denigrate at all the relationship we have with the community in Glynco, such a warm and enthused community for a government program than at Artesia. I cannot tell you anything further that they have not already indicated an interest in exploring with us.

I will be meeting with the Governor of New Mexico in early April and will brief him on what is going on at Artesia and any areas where we believe he can be of help.

Senator DOMENICI. Thank you very much. I have no other questions, Mr. Chairman.

PREPARED STATEMENT

Senator DECONCINI. Thank you, Mr. Rinkevich. Without objection, we will insert your entire prepared statement at this point.

[The statement follows:]

STATEMENT OF CHARLES F. RINKEVICH

Mr. Chairman and members of the Subcommittee, I am pleased to be here today to report on the operations of the Federal Law Enforcement Training Center and to support our appropriation request for fiscal year 1990.

As you are aware, the President's fiscal year 1990 Budget proposes freezing, at fiscal year 1989 levels, the aggregate spending of domestic programs not directly associated with one of his five broad initiatives. Although our programs are included in the aggregate domestic discretionary spending category, the President has emphasized that the freeze is flexible, allowing some programs to increase while others are reduced.

We expect that final decisions about whether to increase or decrease specific programs within this freeze category will be determined through top level deliberations and negotiations between the Administration and Congress.

Today, I am prepared to discuss a number of initiatives, that were presented in the Budget submitted in January.

It should be emphasized that the president has not made final decisions on adjustments to the FLETC budget. Therefore, our discussion must be viewed as providing the committee with information on "candidate" areas which could be increased or decreased within the context of the overall freeze.

At this time, I would like to introduce the representatives of the Center who have accompanied me: R. J. Miller, Deputy Director; William M. Kelso, Assistant Director, Office of Administration, John C. Dooher, Assistant Director for our Washington Office; and Dennis Staton, the Center's Comptroller.

As you know, the Center's mission is to provide Basic and Advanced training for the majority of the Federal Government's law enforcement personnel. We also provide training for State and local law enforcement in specialized areas and support the training provided by our participating agencies that is specific to their needs.

Throughout the years, the Center has become known as an organization that provides high quality and cost efficient training with a "can do" attitude and "state-of-the-art" programs and facilities.

During my 6 year association with the Center, I have seen first hand the many advantages of consolidated training for Federal law enforcement personnel, not the least of which is an enormous cost savings to the Government. Consolidated training avoids the duplication of overhead costs that would be incurred if the Government operated multiple training sites. It also ensures a consistently high quality of training and fosters cooperation and camaraderie in Federal law enforcement.

WORKLOAD

During Fiscal year 1988, the Center trained 20,714 students, representing 87,935 student weeks of training. This total included 15,41 students who were trained at Glynco; 2,979 students trained at our satellite facility at Marana, Arizona; and 2,494 students trained in export programs conducted at various locations throughout the United States.

During Fiscal year 1989, the Center is being asked to train a total of 33,364 students, representing 132,456 student weeks. This total will include 27,771 students trained at Glynco; 2,913 students trained at our satellite facility at Marana, Arizona; and 2,680 students trained in export programs.

For Fiscal year 1990, the training requests from the participating organizations reflect the need to train 31,974 students, representing a total of 130,880 student weeks of training.

Our budget request before you today provides funding for 100% of the direct cost of the fiscal year 1990 Basic training, as projected by our participating organizations.

EMERGENCY FACILITY EXPANSION

As you can see, over the course of the last two fiscal years, the Center has realized an enormous growth in the training demanded by its participating agencies. In order to accommodate the dramatic increases in these training needs, the Center has been required to undertake extraordinary measured to temporarily expand our capacity for housing, dining, classroom, office space, and special training facilities.

Until our new dormitory comes on line in the next few weeks, our on-Center housing will accommodate only 1,208 students. This number of rooms is not adequate to house all of the students attending training in a given week. For example, our average resident student population in off-Center housing has been 644 over the past five months. To address this shortfall, the Center has contracted with four motels in the local community to provide additional housing during peak training periods. This arrangement provides for up to 500 additional rooms housing up to 1,000 additional students as needed. Recently, we had 912 students housed in these motels. Appropriate transportation has been arranged to allow those students housed off-Center reasonable access to Glynco's dining and other support facilities.

Glynco's dining hall has a seating capacity of 1,800 and a cooking capacity which is even greater. This seating capacity is insufficient; and therefore, we have renovated the first floor of a nearby building to provide additional meal service. The meals are prepared in the main dining hall and are delivered to the temporary dining facility. This arrangement provides 200 additional seats; and, with a 50% turnover rate, the Center can feed up to 300 students in this temporary dining facility.

To meet the extra demand for classrooms and offices, the Center purchased 26 portable buildings in January 1988. These temporary buildings have been placed adjacent to permanent structures throughout the Center. They have state-of-the-art equipment and furnishings to ensure the maintenance of quality training. Fifteen of these trailers are used for classrooms, and the remaining eleven are devoted to faculty offices or support activities.

The Center has made other temporary changes in order to address the need for additional space for training. The second and third floors of the satellite dining facility mentioned previously have been converted to physical training rooms. Also, two cardiopulmonary resuscitation (CPR) training rooms have been relocated from the physical training building in order to provide extra training space in that complex. A third CPR training room has been located in one of the trailers.

Six buildings that have been used for visiting instructor housing in the past also have been converted to temporary offices for Center instructors. Further, some offices that were designed to support one person are now used by two. These adjustments were needed to provide office space for the growing numbers of permanent and temporary staff needed to handle the increased workload.

FORT MC CLELLAN TRAINING

In May, 1988, the Immigration and Naturalization Service (INS) advised the Center that they needed to train approximately 1400 additional entry level Border Patrol Agents as quickly as possible during fiscal year 1989. After a thorough study of the Center's staffing and facility resources, it was decided that only a portion of this training could be accomplished at Glynco in the timeframe required by INS, since facility expansion at Glynco and Artesia are not completed. Following discussions among Army officials from Ft. McClellan, Alabama; the INS; and the Center, an agreement was reached to train 800 students at Ft. McClellan, and the remainder at Glynco. On October 3, 1988, 500 students began training at Ft. McClellan.

Subsequently, the Center was advised by INS that, because of budget constraints, tee additional 300 students scheduled to be trained at Ft. McClellan would not be hired. On February 2, 1989, 363 students from the class of 500 graduated. That temporary training center has now been phased out. The Center funded the direct costs of training at Ft. McClellan that would have been funded if the training had been conducted at Glynco. These costs amounted to $588,000. All additional costs were paid for by the INS.

EQUIPMENT

The Center has included in its fiscal year 1990 budget request $1.9 million for equipment. Not only does the increase in the number of classes which the Center is

experiencing necessitate the purchase of new training equipment, but the increased wear and tear on the equipment through heavier daily use also requires earlier replacement schedules. The $1.9 million requested in our budget would provide new, as well as, replacement training equipment including weapons, vehicles, lab equipment, audio/video support, and ADP systems.

MARANA OPERATIONS

In response to a 1984 request from the Department of Interior's Bureau of Indian Affairs (BIA) that the Center manage the Indian Police Academy, the Center opened a satellite facility at Marana, Arizona, approximately 35 miles north of Tucson.

The Center conducted the first 11-week Basic Indian Training Program in January, 1985. Since that time, BIA and other agency Advanced training also has been conducted. This Advanced training is essentially for those students who are posted in the Western regions of the United States, but Marana also has been utilized for some of the overflow training that cannot be accommodated at Glynco.

During fiscal year 1988, a total of 2,979 students graduated from the Marana facility, representing 6,316 student weeks of training. This number included 502 students from the BIA Basic and Advanced programs and 2,477 students from other Agency and State and local programs. In fiscal year 1989, it is anticipated that 2,913 students will attend training at Marana, and a projected 3,910 students are anticipated for fiscal year 1990.

The Center's lease with the Evergreen Air Park at the Marana facility will terminate at the end of fiscal year 1989. Negotiations are presently underway for renewal of that lease agreement.

NATIONAL CENTER FOR STATE AND LOCAL TRAINING

The National Center for State and Local training was established by President Reagan in 1982 to provide training for State and local law enforcement agencies. Since its inception, the National Center has received broad support from the Federal, State and local law enforcement communities which provide subject matter experts for program development and instructional services.

During fiscal year 1988, 3,461 State and local students were trained through the National Center in 50 selected Advanced training programs. This budget request in the amount of $1,244,000 will provide program development and administrative support to permit training of slightly more than 4,000 students. Consistent with the shared funding concept that always has been part of our National Center, State and local agencies continue to be responsible for all expenses related to student salaries, travel, food and lodging associated with this training.

Because of the success of the National Center, requests for training often exceed the space available at Glynco. Therefore, many of these programs are being provided on an export basis at sites across the country. Indeed, the training conducted at Glynco has remained at approximately 1,200 students.

During the past year, the National Center for State and Local Training has been working on several new initiatives. The most recently developed program being offered is Managing Juvenile Operations. This is an intensive five day training program created especially for police juvenile unit commanders to provide simple, yet effective techniques and strategies for planning and delivering juvenile services.

Presently under consideration for development is a Marine Accident Investigation Program. We are currently conducting a survey to determine the extent of the need for a program in this area.

In 1986 the Center was asked to participate in the Operation Alliance initiative. Operation Alliance is a program developed by the Southwest Border Subcommittee of the National Drug Policy Board. This program is a cooperative effort among Federal, State, and local law enforcement agencies to interdict illegal drugs as they come across the Mexican Border by means of highways, airways, waterways, and railway systems. It involves training in interdiction methods, as well as a sharing of information data bases among law enforcement agencies.

The Center's role in Operation Alliance is to assist in satisfying the overall training needs for Federal, State, and local law enforcement agencies participating in Operation Alliance. To this end, the Center has developed video training tapes covering topics including: Operation Alliance Overview; Concealment Methods—Land Conveyances; Cross Designation of Federal Authority; Concealment Methods—Marine Smuggling Detection; and Hazardous Devices in Contraband Concealment. Also under development are video training tapes on Asset Forfeiture and Sharing; Utilization of Federal Firearms Laws Against Narcotics Traffickers; Communications; and Money Laundering.

In addition, the Center has presented four seminars to train officers and agents in video techniques for on-scene filming of actual border incidents to be used for subsequent training videos.

MARITIME ANTITERRORISM TRAINING

In a conference report which accompanied the Center's fiscal year 1988 Continuing Resolution, Congress directed the Center to assess the need for Maritime Antiterrorism and Seaport Security training. In June 1988, a meeting of a small group of experts in seaport security was convened at Glynco to discuss the possible need for a Maritime Antiterrorism and Seaport Security Training Program (MATSSTP). Subsequently, the Center developed a needs survey which was distributed to a total of 36 select organizations determined to have a training interest in this area. A review of the survey results indicates that there is a sufficient amount of interest to warrant the development of such a program.

Therefore, the Center is presently pursuing the development of a training program in Maritime Antiterrorism and Seaport Security. We are in the process of convening a curriculum conference to establish program design and resource requirements. It is anticipated that a two week program will be developed addressing the issues of threat awareness, port security surveys and inspections, marine patrol procedures, physical security planning, crises management, interagency cooperation and other issues which may be identified by the curriculum conference. A pilot program is projected for early fiscal year 1990.

ANTITERRORISM AND PHYSICAL SECURITY TRAINING

The Center has developed several antiterrorism training programs. Up to 28 hours of antiterrorism training has been incorporated into existing Basic programs. In addition, four Center Advanced programs have been completed.

The Antiterrorism Management Training Program, which is a three day program, stresses the prevention aspects of antiterrorism and includes sources of criminal information/intelligence, crime prevention, physical security, personal protection, operations security, and media relations.

The three day Antiterrorism Contingency Planning Training Program focuses on the contingency planning aspects of antiterrorism. Guest instructors from the Federal Bureau of Investigation (FBI) assist in this program with instruction on that agency's responsibilities during terrorism incidents, crisis management, and interagency cooperation. In addition, FBI SWAT teams assist with a demonstration of proper procedures for transferring control from the first responding agency to the SWAT team during a hostage barricade terrorist incident.

The Physical Security Managers Training Program, a three day program, was designed to prepare the individual responsible for managing the physical security effort of an organization.

The fourth antiterrorism training program developed by the Center is the eight day Advanced Physical Security Training Program. This program utilizes the survey process as the common thread throughout the instruction, and the students do actual surveys in small groups; their results are then briefed to the entire class and critiqued.

Last year, the Center completed the construction of a Physical Security/Antiterrorism training facility. This is a model physical security site that allows us to provide specialized training on state-of-the-art equipment and procedures to be used for intrusion detection and other security and antiterrorism topics.

Another initiative begun by the Center in the area of antiterrorism is a survey to determine if a need exists for a Criminal Information Analyst's Training Program. The results of the survey suggest that there is a need for this training and the Center will continue to pursue its development. It is anticipated that this would develop into a ten day program covering topics such as introduction to the intelligence and analysis process, link analysis techniques, communication skills, sources of information and intelligence, charting techniques, computer assistance analysis, intelligence report writing, and analytical techniques. Students will receive core instruction in these areas and will be able to research a particular group specified by their agency, write a report on their findings, and give a presentation of their report as part of a classroom assignment.

DORMITORY CONSTRUCTION

In the fiscal year 1986 Continuing Resolution, the Congress appropriated $6 million for the construction of a new dormitory at Glynco and directed that it be

named the Aubrey A. (Tex) Gunnels Dormitory in honor of the respected Chief Clerk of the House Subcommittee on Treasury, Postal Service and General Government. Construction began in July, 1987 and is being completed this month. This dormitory, which we will formally dedicate on April 7, 1989, will accommodate up to 228 students.

In fiscal year 1989, the Congress appropriated $20 million to the Center for additional construction activities. We intend to use $600,000 of those monies to prepare for the construction of a second new dormitory. It is anticipated that construction will begin in early 1990, with an estimated completion date in 1991. The total estimated cost of this second new dormitory is $7 million. Therefore, the budget request before you today includes $6.4 million to complete this project.

MAINTENANCE

As you know, the Federal Law Enforcement Training Center is located on 1,500 acres of what was formerly a Naval Air Station at Glynco, Georgia. The estimated replacement value for the Center is in excess of $110 million. Over the past fourteen years, many of the existing buildings have been renovated and modified to accommodate various training and support activities. Additionally, the dynamic training requirements of Federal law enforcement necessitate not only continual maintenance and repair, but regular modifications to respond to our agencies' unanticipated training needs.

In the fiscal year 1990 budget request, the Center is seeking a $500,000 increase over the fiscal year 1989 level for increased maintenance cost of the new dormitory and the temporary trailers. This amount is included in our Acquisition, Construction, Improvement & Related Expenses (ACI&RE) account and is necessary to insure the continued repair and maintenance needed to protect the Government's investment, to provide a safe environment for students and staff, and to react to the ever changing training needs of our agencies.

MASTER PLAN

In its fiscal year 1988 Appropriations, the Center was authorized $200,000 to be used for the development of a revised Facilities Master Plan. Subsequently, an Architect and Engineering (A&E) firm was selected and I appointed a Steering Group to guide the firm in the development of the Master Plan.

The principal objective of the Plan is to provide a basis for the efficient and orderly development of the Center's land and facilities resources. The document provides a comprehensive blueprint to guide the immediate and future expansion of the Center so that it can more effectively support the present training workload as well as the workload projected for the future.

The Master Plan identifies three phases of construction. The first Phase is designed essentially to create the training and support capacity to eliminate the need for the temporary buildings and measures we have adopted to handle our present and near term workload needs.

Mr. Chairman, you will recall that in the fiscal year 1989 Appropriation, the Center was authorized $10 million to begin this first phase of the Master Plan. I am pleased to report to you today that our projections for specific construction projects to make up that first phase have been validated by our Master Planners. Those projects are: Physical Training Consolidation ($3,359,000); Firearms Specialties Expansion ($3,828,000); Driver training Expansion ($913,000) Cafeteria Expansion ($1,300,000) and $600,000 to begin construction on a new dormitory.

Additionally, the Master Planners have identified other projects which they consider essential to the first phase implementation of the Plan. We will be working with the Treasury Department and Office of Management and Budget to determine the best way in which to deal with these additional funding requirements for Phase I as well as the Phase II and Phase III requirements.

While essentially complete, the final copies of the Master Plan are not yet printed. I expect to be able to provide you with complete copies soon.

ARTESIA OPERATIONS

The Center's fiscal year 1989 Appropriation included $7 million in the Acquisition, Construction, Improvements, and Related Expenses (ACI&RE) account for the purchase, renovation, and adaptation for law enforcement training of the former Artesia Christian College campus in Artesia, New Mexico. This establishes a government owned satellite facility of the Federal Law Enforcement Training Center. The estimated cost to purchase the Artesia facility is $1.3 million, including the property

and existing facilities, and some improvements to be made by the City of Artesia. The procurement process is presently underway for the purchase of the facility, with an anticipated closing date of April 1, 1989.

The balance of the $7 million will be used for the major renovation and construction projects at Artesia which will bring that facility up to the standard required for law enforcement training. Thirty staff positions are planned for assignment to Artesia. An Assistant Director has been appointed to serve as the senior on-site official to oversee our new Office of Marana and Artesia Operations and he already has assumed his responsibilities. Other positions are in the process of being filled. Fourteen temporary workers have been hired to accomplish general cleanup and preparation activities prior to contracting for renovation, improvement, and construction projects.

The Center has projected September, 1989, for start-up of the first training classes at Artesia. This, of course, is contingent upon the progress achieved in renovation and construction activities.

The facility at Artesia has a 300-bed dormitory and a dining hall with seating for 285 persons. There are a total of eight classrooms which will accommodate up to 370 students. Artesia will primarily accommodate Advanced training programs.

The Center has identified the need for additional facilities to accommodate driver training and firearms training needs. We have located two sites held by the Bureau of Land Management (BLM) which would accommodate these needs and which can be acquired at little cost. The first site, assigned to the City of Artesia by BLM Patent, is less than one square mile in size and is located approximately three and one half miles from the former Artesia college. The City has agreed to allow us to use this property as an interim firearms range. The second piece of land is about nine square miles in size and is located seven miles from the college. It is well suited for the construction of permanent driver and firearms training ranges. The Center's long range plan is to construct permanent ranges at this site. Until the acquisition of the larger tract of land from BLM can be finalized, the Center will construct a driver training range on the college property which would be converted to a practical exercise training area in the future.

The Immigration and Naturalization Service is the principal agency committed to use of Artesia for Advanced training to date. However, several other potential users that we have identified include the Department of State, the U.S. Customs Service, the Federal Aviation Administration, and the U.S. Forest Service.

CLOSING

Mr. Chairman, in closing, I would like to say that I remain strongly committed to the effort of the Administration and this subcommittee to control Government expenditures. At the same time, I am committed to the mission of the Center to provide high quality training at the lowest cost possible. Substantial savings are being realized through the operation of the Center as a consolidated training facility, and I recognize that our success is made possible, in large part, through this Committee's support and guidance. I look forward to your continued support as we strive to remain a Center of Excellence.

My colleagues and I are available to answer any questions you may have concerning this appropriation request.

SUBMITTED QUESTIONS

Senator DECONCINI. We will submit some questions to you, just to keep you busy, I am sure. Thank you, sir. Without objection, they will be included in the record.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator DeConcini

SENATOR DECONCINI: Your proposed FY 90 Budget Request totals $44 million, an amount which is $11.5 million under the FY 89 enacted level of $54.6 million. Your justification accounts for this reduction with FY 89 non-recurring costs of $2.4 million in your Salaries and Expenses Account for permanent change of station moves and a series of non-recurring costs totalling $17 million in your Acquisition Account for Artesia and a series of expansions of existing facilities.

First, can you explain why you have the savings of $2.4 million from the change of station moves, then give me an updated status report on the facilities funded in FY 89 and whether or not there are sufficient funds included in the FY 90 budget to operate these facilities?

MR. RINKEVICH: The FY 1989 Appropriations Act increased the Center's authorized FTE level by 100 positions and included permanent change of station funds. We anticipate that all 100 will be employed in FY 1989 and that the PCS monies will be obligated; therefore, the PCS funds are not required in FY 1990.

The facilities funded in FY 1989 include: physical training consolidation, firearms training expansion, driver training expansion, cafeteria expansion and the first phase of construction of a new dormitory. While all FY 1989 funds appropriated for these facilities have been committed, because of the long lead times required by contracting rules and regulations, the need for professional architectural and engineering services to design the project, and then the actual construction of the facilities, it will be late FY 1990 before the facilities will be ready for use. The FY 1990 funds required to operate these new facilities will be minimal and there are sufficient funds available for the needs during the first year of use.

SENATOR DECONCINI: Your justification goes on to state that your anticipated average resident student population in FY 90 will be about the same as Fiscal Year 1989, 1,810. The FY 89 funding allows you to train approximately 13,676 students and you expect the FY 90 budget to fund approximately 12,219 students in Basic training. Your testimony, however, states that you have been asked to train 33,364 students in FY 89 and your requests for FY 90 are projected at 31,974. I assume these figures reflect the combined training for Basic, Advanced and agency reimbursables. Is that correct?

MR. RINKEVICH: Yes. The numbers quoted in the testimony are for all categories of training including Basic, Advanced, and State and Local.

SENATOR DECONCINI: Can you give us a breakdown for each category in FY 89 and FY 90?

MR. RINKEVICH:

	FY 1989	FY 1990
FUNDED BASIC	13,676	12,219
SPACE AVAILABLE/ REIMBURSABLE BASIC	1,432	724
ADVANCED	14,223	14,998
STATE & LOCAL	4,033	4,033
TOTAL STUDENTS	33,364	31,974

SENATOR DECONCINI: Since your budgets are prepared far in advance of the beginning of the funding year, your estimates for training have historically changed as a result. Last year the subcommittee asked you to provide semi-annual reports to us on your revised training estimates so that your appropriation level will more closely reflect your actual training needs. Do you have any way of gauging today whether or not your training estimates for Fiscal Year 1990 will increase above the 31,974 level you mention in your testimony and, if so, can you give us an estimate?

MR. RINKEVICH: The 31,974 includes all Basic, Advanced, and State and Local students. We do have more recent workload projections from the participating organizations and we will update them again in July, 1989. I do not believe that the total projections will increase over the 31,974 students that are in the FY 1990 budget submission.

SENATOR DECONCINI: Is your proposed Plant Operations budget for FY 90 sufficient to cover the costs of your projected training requirements? If not, what additional funding would you need to meet those requirements?

MR. RINKEVICH: The Plant Operations budget is sufficient for the Glynco facility. Funding is not required for Marana because it is a reimbursable facility. Artesia is a Center-owned facility and will require Plant Operations funding. In FY 1990, the only Artesia operational funding requested by the Center is the compensation and related expenses of the Federal employee personnel assigned to Artesia. Additional Plant Operations funding was not requested by the Center. If, upon further consideration and evaluation, it is determined that more funds are required, we will prepare the proper request and forward it to the Department and OMB.

SENATOR DECONCINI: What was your budget request to the Department and OMB for your Salaries and Expenses Account?

MR. RINKEVICH: We made two requests to the Department. The first request, made in June 1988, was based on the FY 1989 President's Budget Proposal and was for $55,330,000 which included $24,780,000 in no-year funding for facility maintenance and enhancements. The second request, made in August 1988, was based on the FY 1989 Conference Committee recommendations and was for $35,348,000 for the Salaries and Expenses Account and $16,980,000 for the Acquisition, Construction, Improvements and Related Expenses Account. The request to OMB was for $35,348,000 in the Salaries and Expenses Account and $9,880,000 in the Acquisition, Construction, Improvements and Related Expenses Account.

SENATOR DECONCINI: What would you have used those funds for?

MR. RINKEVICH: The Department disapproved funding that the Center requested in the S&E account for the first submission, amounting to $10,392,000 of no-year money. The funding would have been used for construction of a classroom/training support building for $4,100,000, a dormitory for $7,000,000 and facility enhancements at Marana for $800,000 if a long-term lease were negotiated. They approved the entire $35,348,000 request made in the second submission for the S&E account. In our newly created, no-year ACI&RE account, the Department disapproved a total of $7,100,000. The funding would have been used for construction of a classroom/ training support building for $4,100,000 and facility enhancements at Artesia for $3,000,000. OMB disapproved $1,190,000 from the Center's S&E request, including $596,000 for maintaining current levels and $594,000 for equipment needs. The OMB approved the entire amount requested in the ACI&RE account which is $9,880,000 for construction of a dormitory and maintenance of the facility.

SENATOR DECONCINI: Can you update me on the number of students from State and local governments who will receive training at FLETC? Is the FY 90 budget sufficient to accommodate State and local governmental law enforcement personnel?

MR. RINKEVICH: The projection for FY 1990 is for the Center to train 4,033 State and Local students representing 4,436 student-weeks for an average resident student population of 85. Since the inception of State and Local training in FY 1983, the work- load has increased yearly. The FY 1990 budget is sufficient to accommodate the State and local governmental law enforcement personnel under the shared funding concept, whereby the Center is responsible for funding the FTE assigned to the National Center, program administration, course development, marketing, advisory committee and off-site delivery. The State and Local governments are responsible for student salaries, travel, enroute per diem, and on-site food and lodging.

SENATOR DECONCINI: You mention a number of your new training initiatives in your testimony involving Operation Alliance. How many students working in Operation Alliance do you plan to train this year? Is the number for Fiscal Year 1990 expected to increase?

MR. RINKEVICH: Our participation in this important initiative has been two-fold. First, as the participating agencies have dedicated experienced personnel to Operation Alliance, the Center has trained the recruits that are hired to backfill the vacated positions. These trainees go through the same Basic training programs at the Center that any other student would attend. We have not tracked the number of students that were Operation Alliance related. Second, we have developed a series of video training tapes to be used in the Operation Alliance effort. These tapes are made available to all Alliance agencies, including State and Local governmental entities. The tapes cover a wide range of topics, including: Operation Alliance Overview, Concealment Methods, Cross Designation of Federal Authority, Hazardous Devices in Contraband Concealment, Asset Forfeiture and Sharing, Utilization of Federal Firearms Laws Against Narcotics Traffickers, Communications and Money Laundering. Some of these training tapes contain on-scene footage of actual border incidents, thus enhancing the realism of the tape. We have distributed copies of the above tapes to the forty-one law enforcement agencies involved in Operation Alliance. Also, we provided video operation training for the agencies to use in video taping evidence and other important incidents along the border.

SENATOR DECONCINI: In FY 88, the committee directed FLETC to formulate a Master Plan for Glynco and provided funds in both '88 and '89 to design and construct the first phase of that plan. Can you tell us what is the status of your Master Plan and what projects remain to be funded to complete Phase I?

MR. RINKEVICH: Funds were provided in FY 1988 to prepare the Master Plan. A contract was awarded to Taylor Anderson, Architects, of Atlanta, Georgia, to formulate this plan. The proposed three-phase Master Plan should be completed within the next month. Phase I construction projects total approximately $28,000,000 and the FY 1989 Appropriations Act provided $10,000,000 to start the construction effort. The Center has $1,600,000 from previous funding that can be applied and $6,400,000 is requested in the FY 1990 budget. The unfunded projects include: portions of Advanced firearms training facility, relocation of the explosives range, road improvements, enhancement of the Student Center, physical training facilities and vehicle fueling area. The funding for these projects will be requested in the FY 1991 budget.

SENATOR DECONCINI: When do you expect to get into Phase II and have you identified at least tentative estimates of your facility requirements for both Phase II and III?

MR. RINKEVICH: Phase II is identified by the proposed Master Plan as beginning to address reconfiguration of facilities and to respond with project priorities to ensure future space and infrastructure needs are met. Tentative funding of approximately $23,000,000 has been identified based on the workload forecasts used by the Master Plan. Phase III provides for increased training facilities requirements and provides new types of facilities to enhance and expand the training programs. Phase III requires funding of approximately $32,000,000.

SENATOR DECONCINI: Are there any funds included in your Fiscal Year 1990 budget for Phase II development? Could you tell me what projects could be undertaken in FY 90 if the funds were available for your next phase of construction?

MR. RINKEVICH: There are no funds included in our FY 1990 budget for Phase II of the proposed Master Plan. The FY 1990 request does include funding of $6,4000,000 to complete a dormitory to be scheduled for start up in FY 1989 that is identified as a Phase I project. Phase I projects are required to meet current demands and they should be completed before moving into Phase II projects.

SENATOR DECONCINI: What will happen if sufficient funds are not provided for your master plan in Fiscal Year 90--will Federal agencies be turned away?

MR. RINKEVICH: Provision of additional funds in FY 1990 will not result in additional capacities in that year, due to the long lead time in for construction. The Center's goal is to accommodate all of the training requirements of the participating organizations. If sufficient funding is not provided for implementation of the proposed Master Plan, it may become necessary to cancel training due to facility shortages in the outyears, but not in FY 1990. However, it is not the Center's desire to turn away training of entire agencies. Further, we strive to accommodate all Basic training requested. As in the past, that Basic training would continue to be conducted in make-shift facilities and Advanced training would be delayed, backlogged, or conducted elsewhere, most likely less efficiently and at greater cost than what could be achieved at Glynco.

SENATOR DECONCINI: I am pleased to see that the administration has seen fit to include $6.4 million in your Acquisition Account to fund the construction of a new dormitory in FY 90 for Glynco. However, as I see it, this amount falls far short of the amount needed to permit you to keep your Master Plan on track and meet the ever-rising demands of the law enforcement community.

How many additional students will the new dormitory accommodate and will this enable you to eliminate the use of motels in the Glynco area? If not, how many additional dormitories do you think you will need?

MR. RINKEVICH: The dorm is expected to accommodate 228 students. The addition of this dormitory will increase our on-Center capacity to 1,664 at Glynco. The Center's FY 1988 average resident student population was 1,691. With the FY 1989 and 1990 student load projected to be even greater than the actual FY 1988 workload, we will have to continue to rely upon motels in the local area to house significant numbers of Basic as well as Advanced students. The proposed Master Plan will address the issue of the number of additional dormitories required. Since the Master Plan had not been developed, we could not address this issue in this budget cycle.

SENATOR DECONCINI: Can you give the committee an updated status report on the Artesia Advanced Training Center--when will you complete the renovations and be able to start taking students for instruction?

MR. RINKEVICH: The purchase of the property is progressing and should be completed during April, 1989. The City of Artesia has already started some of the rehabilitation projects with our guidance, and we are in the design phase on major construction projects. We expect to start training by October 1, 1989.

SENATOR DECONCINI: Can you tell me if there are any funds in the FY 90 for the operations and maintenance requirements for Artesia? If not, how much is needed to cover the costs of O&M in FY 90?

MR. RINKEVICH: In FY 1990, the only funds requested by the Center are for personnel compensation and related expenses of the personnel assigned to Artesia. Additional operations funding was not requested by the Center. If, upon further consideration and evaluation, it is determined that more funds are required, we will prepare the proper request and forward it to the Department and OMB. Maintenance funds are not included in the FY 1990 request because Artesia will be a newly renovated/constructed facility and maintenance in the first year will be minimal. In our FY 1991 submission, we will request maintenance funds for the Artesia facility similiar to the approach taken at Glynco.

SENATOR DECONCINI: What facility enhancements must be undertaken at Artesia to allow the Center to provide the Advanced training envisioned when it was created? What are the costs?

MR. RINKEVICH: The $7,000,000 appropriated in FY 1989 will provide for the purchase and the minimum renovation/construction projects necessary to open the

Artesia facility for training. We have identified additional facility enhancements that cannot be funded with the original $7,000,000 appropriation. These include: firearms training expansion, driver training expansion, student recreation and physical fitness areas, and walkways. We will request these improvements in our next budget submission.

SENATOR DECONCINI: Your testimony indicates that you plan to train 2,913 students at Marana in FY 89 and your projected training estimate for Fiscal Year 1990 is 3,910. This is a considerable increase. I recognize that Marana is a reimbursable facility, but could you tell me what the projected funding level is for the operation and maintenance of Marana in FY 90 and whether or not it is adequate to fund the increased training requirements?

MR. RINKEVICH: As you note, the Marana site is a reimbursable facility. The only costs that are borne by the Center are for the compensation and related costs of the personnel assigned to Marana, and the direct cost of the BIA Basic training. All other costs are reimbursable from the various agencies that train there.

SENATOR DECONCINI: Does your Master Plan include any facility enhancements for the Marana Training Center? If so, could you explain the enhancements needed and tell me whether or not funds have been included in the FY 90 budget for this purpose?

MR. RINKEVICH: The proposed Master Plan, prepared by the architect, does not include any facility enhancements for the Marana facility. We are in the process of preparing an in-house addendum to the Master Plan for Marana. Since the Marana Master Plan is still in the development stage, funds are not included in the FY 1990 budget request. Contingent upon successful renegotiation of a new lease, a request for funding would be submitted through the Department and OMB.

SENATOR DECONCINI: As you recall, language was included in the FY 89 Treasury Appropriations Bill directing FLETC to formulate a plan to construct an Advanced firearms training center. A number of agencies and, in particular, the U. S. Customs Service, has been very anxious to find a suitable facility for its advanced training needs and has had discussions with the army about the use of Fort Benning. This committee has made it clear that we do not intend to allow any executive agencies to construct Advanced firearms training facilities outside the umbrella of FLETC. But on the other hand, we are depending on you to provide the facilities to accommodate those needs in a timely manner.

Where are you on the development of an Advanced fire-arms center and do you think you will be able to develop a plan which will accommodate the needs of the Customs Service?

MR. RINKEVICH: We have had numerous discussions and meetings with the Customs Service and other agencies on this topic. Included in Phase I of the proposed Master Plan is a project for firearms expansion, including the construction of two 24-point indoor pistol ranges, a rifle range, expanded armory capabilities and other live fire facilities. We believe that we can develop a plan which will accommodate not only the needs of the Customs Service, but also the needs of the other participating organizations that have Advanced firearms requirements. It may require additional funding and/or a need to develop interim arrangements with Fort Stewart, a military installation near Glynco.

SENATOR DECONCINI: What about other Federal agencies--have you identified others that may need Advanced training facilities which could be carried out through the Federal Law Enforcement Training Center?

MR. RINKEVICH: In addition to the Customs Service, many of the Center's participating organizations have a need for this type of Advanced firearms training, including the Marshals Service, Border Patrol, State Department, Park Police and the Bureau of Alcohol, Tobacco and Firearms. That is why it is important for the Center to provide that training, so that it can also be offered to those other agencies as well as the Customs Service.

Questions Submitted by Senator Domenici

SENATOR DOMENICI: In fiscal year 1989, $7 million was appropriated for the acquisition and renovation of the former Artesia Christian College as a new FLETC satellite training facility.

Would you please give us a specific breakdown of how these funds are being spent?

MR. RINKEVICH:

PURCHASE	ESTIMATED COST
Purchase	$ 600,000
RENOVATION/CONSTRUCTION:	
Refurbish Facility	1,225,000
Paving	450,000
Roofing	350,000
Dining Hall	500,000
Security Systems	135,000
Administration Building	460,000
Fencing	100,000
Asbestos Abatement	400,000
Physical Training Facilities	940,000
Driver & Firearms Facilities	780,000

Driving Ranges	550,000
Equipment	510,000
TOTAL	$7,000,000

SENATOR DOMENICI: When do you expect to start training at the new Artesia facility? How many students do you expect will be trained at Artesia in Fiscal Year 1990? How many student-weeks of training does this represent? What do you anticipate will be the average resident student population there?

MR. RINKEVICH: We expect to start training by October 1, 1989. The only firm projected training that we currently have is from the Immigration and Naturalization Service (INS). The INS is projecting 2,556 students representing 6,107 student-weeks of training for an average resident student population (ARSP) of 117. Other agencies have indicated interest in training at the Artesia facility. These include the State Department, the Customs Service and the Federal Aviation Administration. If the renovation/ construction projects are completed on time, I fully expect training to be conducted for approximately 5,200 students representing 12,480 student-weeks for an ARSP of 240 in FY 1990.

SENATOR DOMENICI: Will any Basic training be done at Artesia or do you intend to utilize this facility only for reimbursable training?

MR. RINKEVICH: Initially, I expect only reimbursable Advanced training will be conducted. However, our plans are to construct the necessary special training facilities that are required for Basic training so that when we cannot accommodate all Basic training needs at Glynco we can do Basic training at Artesia in a cost effective manner. Also, many Advanced training programs require special training, so the facilities will be utilized by both types of training.

SENATOR DOMENICI: Which operational costs for Artesia will be directly funded by the Center? Which services will you contract out? Have you awarded any of these contracts yet?

MR. RINKEVICH: In FY 1990, the only costs directly funded by the Center are the compensation and related expenses of the Federal employee personnel assigned to Artesia. Services that will be contracted include: dormitory services, cafeteria operations, security, grounds maintenance, utilities, telephone, and logistical support. None of the above contracts have been awarded at this time.

SENATOR DOMENICI: Have you identified any additional facility enhancements needed at Artesia for which

funding is not available? If so, what are they? What level of additional funding would be required?

MR. RINKEVICH: We have identified additional facility enhancements that cannot be funded with the original $7,000,000 appropriation. These include: firearms training expansion, driver training expansion, student recreation and physical fitness areas, and walkways. We will request these improvements in our next budget submission.

SENATOR DOMENICI: I understand that the DEA and the National Institute of Corrections are interested in new training facilities. Have these agencies discussed with you how their training needs might be met at the Center? What has been the result of those discussions? Do you expect any other Federal agencies not participating in FLETC currently to enter your program?

MR. RINKEVICH: It is also my understanding that the Drug Enforcement Administration and the National Institute of Corrections are interested in new training facilities. The DEA has requested meetings to discuss their training needs with us, and we have agreed to meet on at least three occasions; however, those meetings have, in each case, been cancelled by DEA. We are anxious to meet with DEA and are willing to do so anytime, anywhere. At this time we do not know what DEA's specific needs encompass. There has been no contact from the NIC. We do expect that it is possible that other Federal agencies will seek participating organization status with the Center. The largest of these would be the Veteran's Administration Security Police.

SENATOR DOMENICI: In Fiscal Year 1989 $10 million is provided to begin implementation of Phase I of the Master Plan for facilities expansion at Glynco. Will this $10 million be obligated in Fiscal Year 1989? I am surprised that additional funding for the Master Plan is not requested in Fiscal Year 1990. Did you originally request such funding? If so, how much was requested and for which projects specifically? What additional funding could be obligated in Fiscal Year 1990?

MR. RINKEVICH: The $10,000,000 is committed to specific projects to begin the implementation of Phase I of the proposed Master Plan. However, because of long lead times in design and construction contracting, all of the funds may not be obligated by the end of the fiscal year. There is $6,400,000 requested in FY 1990 for the construction of a new dormitory, which is recommended by the Master Plan. Since the Master Plan was not available to us during the FY 1990 budget development cycle, we did not include any other funds to implement specific parts of it. However, we did originally request funding from Treasury of $4,100,000

for a classroom and training support building at Glynco, $3,000,000 for future construction/renovations at Artesia, and $800,000 for projects at Marana, including classroom and training support, and expansions to firearms, driving and physical training areas.

Phase I in the proposed Master Plan identifies a total of ten projects. The $10,000,000 provided by the FY 1989 Appropriations Act will fully fund four of the projects and the FY 1990 request includes $6,400,000 to complete the fifth project, which is the aforementioned dormitory. The remaining five projects that have been identified by the proposed Master Plan have not been reviewed by the Department or OMB. It is unclear at this time how much additional funding could be obligated in FY 1990.

SENATOR DOMENICI: I realize that the Master Plan has not been finalized but could you please give us a summary of what it will envision. What will be the total cost? How many funding phases will be included and what level of funding will be required to implement each phase?

MR. RINKEVICH: The proposed Master Plan recommendations will identify the required physical facilities and resources necessary to meet the needs to continue providing quality law enforcement training. It builds upon existing resources whenever possible, takes advantage of natural and man-made site conditions and utilizes available underdeveloped land or underutilized buildings in a highly efficient manner. The central core of the campus will be emphasized and enhanced as the focal point of Center training and support activities. To the greatest extent possible, within constraints of available space and economics, related activities will occur in close proximity to one another. Student-related functions will be clustered together to encourage maximum utilization and provide for a rich experience for those students who stay for extended training periods. The total cost is estimated to be approximately $82,000,000. Because the Master Plan must allow for implementation with minimal disruption to the on-going training functions of the Center, it contains three phases.

Phase I projects are intended primarily to meet current facility shortfalls and require funding of approximately $27,700,000.

Phase II projects begin to address reconfiguration of facilities and to respond with project priorities to ensure future space and infrastructure needs are met. Phase II requires funding of approximately $22,600,000.

Phase III projects provide for facility needs of increased training requirements and provide new types of

facilities to enhance and expand the training programs. Phase III requires funding of approximately $31,700,000. It must be emphasized that neither the Treasury Department nor the Office of Management and Budget have had the opportunity to review the proposed Master Plan or its recommendations and cost estimates.

SENATOR DOMENICI: What additional funding for the Center, if any, was included in your original budget submission to the OMB which has not been included in the President's Fiscal Year 1990 request?

MR. RINKEVICH: In the Salaries and Expenses account, the Center requested $35,348,000 and the OMB approved $34,158,000 a reduction of $1,190,000 or 3.4 per cent. Included in the reduction were $596,000 for maintaining current levels and $594,000 for equipment needs. In the Acquisition, Construction, Improvements and Related Expenses account, the OMB approved the entire amount requested by the Center.

SENATOR DOMENICI: The Fiscal Year 1989 Appropriations Act requires the Center to include the construction of an Advanced Firearms Training Range in its Master Plan for the Center. The U.S. Customs Service is one of the agencies that has identified to us a need for specialized firearms training. I understand you have been working to accommodate the Customs Service. Could you please update us on those discussions? Which other of your participating organizations have a need for similar Advanced firearms training?

MR. RINKEVICH: First, we have insured that the proposed Master Plan addresses this area. We have also had numerous discussions and meetings with the Customs Service on this topic. Included in Phase I of the proposed Master Plan is a project for firearms training expansion, including the construction of two 24-point indoor pistol ranges, expanded armory facilities and other advanced live fire facilities. Many of the Center's participating organizations have a need for this type of Advanced firearms training, including the Marshals Service, Border Patrol, State Department, Park Police and the Bureau of Alcohol, Tobacco and Firearms. Presently, Assistant Treasury Secretary Martoche is reviewing the Customs Service proposal for advanced firearms training because of some issues relating to cost and need for all aspects of the training proposed by Customs. I have assured both Assistant Secretary Martoche and Commissioner Von Raab that, given the acceptance of reasonable accommodations by the Customs Service, we can handle their advanced firearms training needs at Glynco, Artesia or a combination of both sites; and further, that it may be possible to accommodate their immediate needs at a military facility very near to Glynco.

SENATOR DOMENICI: I understand the 228-bed dormitory previously funded will be open shortly. The Fiscal Year 1990 request includes $6,400,000 for another new 228-bed dormitory at Glynco. How long will it take to construct this second dormitory? Will these two dormitories take care of your on-Center housing needs or will you still be required to house students off-Center?

MR. RINKEVICH: The new dorm is expected to open no later than March 31, 1989. The dedication ceremony is planned for April 7, 1989. The dormitory requested for FY 1990 should be constructed and on-line by September 1991. Based on the number of students actually trained in FY 1988 and the projections for FY 1989 and the outyears, the on-Center housing capacity will still be short and students will still be required to stay off-Center even after the second new dormitory is completed. That housing shortfall is addressed in the proposed Master Plan.

SENATOR DOMENICI: How many temporary facilities are now being utilized at Glynco?

MR. RINKEVICH: The Center presently utilizes 26 temporary trailers. In addition, we are using one floor of a building as a temporary dining hall while the other two floors are being used as physical training rooms. Also, six visiting instructor houses are being used as Center instructor offices and many offices that were originally designed to support one person now have two people assigned.

SENATOR DOMENICI: The Fiscal Year 1990 request for major maintenance is $3,480,000, an increase of $480,000 above the Fiscal Year 1989 level. This increase is for maintenance of the new dormitory which will become operational at Glynco and numerous temporary facilities there. What level of funding is included in your request for operation and maintenance of the new Artesia facility?

MR. RINKEVICH: Funds are not included in the FY 1990 request for maintenance of the Artesia facility. The major reason for this is that Artesia will be a newly renovated/constructed facility and maintenance in the first year will be minimal. In our FY 1991 submission, we will request maintenance funds for the Artesia facility similar to the approach taken at Glynco.

SENATOR DOMENICI: The Fiscal Year 1990 appropriation language proposes to increase from 15 to 30 the limitation on the number of vehicles which can be purchased for police-type use. How many such vehicles will you purchase in Fiscal Year 1989 and why is this 100% increase necessary?

MR. RINKEVICH: We will purchase 15 police-type vehicles in FY 1989. The reasons for the 100% increase are that the Artesia facility must be equipped with vehicles for the start-up of operations and, as the training continues to increase at Glynco, additional training vehicles are required as well.

SENATOR DOMENICI: Of the total authorized 425 full-time equivalent positions for the Center, how many are allocated to each of your training sites, i.e., Glynco, Marana, and Artesia?

MR. RINKEVICH: Our current position staffing allocates 387 positions to Glynco, 8 to Marana and 30 to Artesia.

SENATOR DOMENICI: Of the total $11,448 thousand requested for plant operations in Fiscal Year 1990, what amount is required for each of the Center's three training sites?

MR. RINKEVICH: The entire amount is for the Glynco facility. Marana is a reimbursable, leased facility; therefore, no Plant Operations funding is allocated to it. Artesia will be a Center-owned facility and we will require some Plant Operations funding. Our authority to purchase it came about so late in the FY 1990 budget development process, that no funding was requested. Funding for Plant Operations will be requested in the FY 1991 budget submission.

SENATOR DOMENICI: The Fiscal Year 1989 Appropriations Act requires the Center to hire up to and maintain an average of not less than 425 direct full-time equivalent positions for Fiscal Year 1989. Is the Center complying with this legislated staffing level?

MR. RINKEVICH: The Center's staffing plan is for 454 employees. The overstaffing is designed to use the lapse created when employees retire, resign or transfer. We will have a minimum of 425 positions filled by the end of the fiscal year, but I anticipate that the actual FTE utilization will be approximately 410 for FY 1989. There are two major reasons for this shortfall. First, the FY 1989 Appropriations Act increased the FTE level by 100 positions or 31 per cent. That is a large increase and it has taken time to advertise, recruit and select qualified individuals. Second, a total of thirty positions were earmarked for Artesia. It has been slower coming on-line than originally planned. We have employed temporary workers to hasten the conversion process, but we will still fall short of the legislated staffing level in FY 1989.

SENATOR DOMENICI: New statutory language is requested in Fiscal Year 1990 which provides that "notwithstanding any other provision of law, students attending training at any Federal law enforcement training site shall reside in on-Center or Center-provided housing,

insofar as available and in accordance with Center policy." The justification indicates that this language provides a clear representation of the Center's housing policy for all students attending training at FLETC. Why is this language needed and what other provisions of law will be waived by it?

MR. RINKEVICH: This language is intended to emphasize what has always been the policy and practice of the Center. In fact, the language is consistent with the original prospectus which was submitted and approved by the Congress and which calls for the Center to be a residential facility. Recently, there have been several challenges to the Center's housing policy by a Federal sector labor union. These challenges would have allowed students to reside off-Center and receive per diem, thus greatly increasing the cost to the Government. Due to technical aspects of the Federal labor program related to the concept of what is, or is not negotiable, the Federal Labor Relations Authority has issued decisions supporting the union and placing the Center's policy in jeopardy. Statutory language such as is proposed would clarify the policy's status and exempt it from negotiation.

It has long been determined that on-site residence is an essential factor in creating a living environment which facilitates the intensive law enforcement training conducted by the Center. Specifically, on-site residence is necessary to facilitate attendance at the various training sessions; it provides an environment for the students to discuss and study training materials outside of formal instruction time; it facilitates the exchange of law enforcement experience between students from the 62 participating organizations which enhances understanding and networking; provides a proximate location for changing clothes and showering after the varied training activities; provides access to remedial instruction and encourages the use of the library for required and independent research; encourages the students to take part in a physical fitness program; fosters student discipline; and, residing on-Center facilitates timely communications in emergency situations or in the event of training schedule changes. The provision of law which this language is designed to negate is 5 U.S.C. 5911(e), which imposes certain conditions on Government-provided lodging.

SENATOR DOMENICI: The Fiscal Year 1989 funding level for the National Center for State and Local Training is $1,292 thousand, which you indicate will support the training of 4,033 students. I note that same number of students are expected to be trained in the program in Fiscal Year 1990 but the funding request is slightly lower, i.e., $1,244 thousand. Why is less funding required to train the same number of students in Fiscal Year 1990?

MR. RINKEVICH: The FY 1989 funding level includes $65,000 in nonrecurring one-time expenses relating to personnel permanent change of station costs. The FY 1990 level actually reflects a small increase of $17,000 for maintaining current levels but the impact of the reduction for nonrecurring one-time expenses causes the activity to reflect a requirement for less funding.

SENATOR DOMENICI: The Fiscal Year 1990 justification indicates that the funded average resident student population (ARSP) for Fiscal Year 1990 in the Basic training programs of the Center will remain the same as the Fiscal Year 1989 level of 1,810, and the number of student-weeks will also remain the same, but the number of Basic students will fall from 13,676 to 12,219. This compares to Fiscal Year 1988's total number of 9,670 Basic students and an ARSP of 1,377. I realize you receive training projections from your participating organizations to use as the basis for your budget request, but I am surprised to find the number of students requiring Basic training declining from Fiscal Years 1989 to 1990 and your funded ARSP remaining the same given the increases we've seen in the past. The same seems to be true for the training the Center provides on a reimbursable basis where 7,583 students were trained in Fiscal Year 1988, increasing to 15,655 in Fiscal Year 1989, and projected to rise just slightly to 15,722 in Fiscal Year 1990.

Would you care to comment on this? I note the Fiscal Year 1990 projections were made on data available as of July 1988. Agencies provided new projections of their training needs in January. Have these new training projections altered your funding requirements? If so, how? How accurate have the training projections of your participating organizations been in the past?

MR. RINKEVICH: As you indicated, our projections are based on input received from the participating organizations. Further, the data for FY 1989 and FY 1990 are estimates and based on pro- jections received in July, 1988. We request projections from the participating organizations twice a year, in January and July. The projections are for the upcoming fiscal year and the five outyears. It is not uncommon for each of the outyears to reflect decreases when compared to the upcoming fiscal year. In reality, the FY 1989 estimate is probably a little too high and the FY 1990 estimate will likely increase as we get closer to the start of the fiscal year. Also, the fluctuation in ARSP and numbers of students is a function of the length of the program. Student numbers and student-weeks will vary according to the mix of Basic and Advanced programs which we conduct. This mix fluctuates from year to year and thus the number of students can decrease and yet the ARSP can increase if those students are enrolled in longer programs.

The amount of Advanced training we are asked to support is even more fluid because Basic training receives priority scheduling. The participating organizations are aware of and agree with this policy and therefore defer needed Advanced training in order for us to accommodate the priority Basic training. Because over the last several years, the Basic training workload has prevented much Advanced training from being conducted, the participating organizations now have a tendency not to project the Advanced training because they know the Center will not be able to accommodate all of it. Yet, our participating organizations consistently urge us to make more time and space available for Advanced training.

The Basic and Advanced training projections received in January, 1989, are being reviewed and analyzed. The preliminary analysis reflects that the projections have decreased from the July, 1988 projections. This is the first time this has ever happened. It is our belief that when we receive the July, 1989 projections, and the possible workload generated by prospective new client agencies that the FY 1990 level will, at the very least, equal the FY 1989 training. If Basic training does indeed decrease from the FY 1989 level, it is absolutely certain that actual Advanced training needs that have been deferred will quickly and completely fill any vacant space available.

There have been problems with inaccurate participating organization projections in the past. We are currently working on two possible methods of increasing the accuracy. One includes the use of a "historical demand growth" factor and the second is a mathematical model that we are jointly developing with the Treasury Department's Office of Planning and Management Analysis with assistance from the Office of Personnel Management. It is too early to tell if either approach is going to be beneficial.

ADDITIONAL REMARKS OF MR. NUMMY

Mr. NUMMY. Mr. Chairman?

Senator DECONCINI. Yes?

Mr. NUMMY. Could I make two statements for the record?

Senator DECONCINI. Sure, you can make as many statements as you like.

Mr. NUMMY. First of all, in regard to consolidated training, there is no revision to supporting consolidated training. The Department still believes it is the best way to approach this.

Second, in terms of pay, in my position at Treasury I also am serving on the National Commission on Law Enforcement. We have five bureaus in Treasury that have law enforcement officers and share the same concerns raised here today. And as I understand it, there are almost 40 agencies in the Government that have law enforcement agents or law enforcement officers. We strongly believe that the Commission has been formed to address that on a

comprehensive basis and that looking at it agency by agency is really not the most efficient approach.

So I look forward to working with you on that. I wanted to make those two points for the record.

Senator DECONCINI. Thank you.

Mr. NUMMY. Thank you.

SUBCOMMITTEE RECESS

Senator DECONCINI. The subcommittee will stand in recess.

[Whereupon, at 11:35 a.m., Friday, March 3, the subcommittee was recessed, to reconvene at 10 a.m., Wednesday, March 8.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1990

WEDNESDAY, MARCH 8, 1989

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:05 a.m., in room SD-116, Dirksen Senate Office Building. Hon. Dennis DeConcini (chairman) presiding.

Present: Senator DeConcini.

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

STATEMENT OF DAVID NUMMY, ACTING ASSISTANT SECRETARY FOR MANAGEMENT

ACCOMPANIED BY:

G. MARTIN WAGNER, ACTING DEPUTY ASSISTANT SECRETARY FOR INFORMATION SYSTEMS

CHARLES B. RESPASS, ACTING DEPUTY ASSISTANT SECRETARY FOR ADMINISTRATION

OPENING REMARKS

Senator DECONCINI. The Subcommittee on Treasury, Postal Service, and General Government will come to order. Today we will continue our fiscal year 1990 budget hearings by taking testimony from witnesses representing the Treasury Departmental Offices, the Office of Inspector General, the Financial Management Service, the Bureau of the Public Debt, and the U.S. Mint.

Before we begin, I will ask each witness to summarize their statements. We will put your full statements in the record, and we will submit questions for the record. Senator Domenici may be joining us later, and he will have questions, I know, that we will also submit to be answered for the record.

We will begin this morning with the distinguished new member of the Treasury Department, Mr. David Nummy, Acting Assistant Secretary for Departmental Finance and Management. Please proceed.

Mr. NUMMY. Thank you, Mr. Chairman. I am indeed pleased to be here today. If I can introduce quickly the two gentlemen——

Senator DECONCINI. Please do.

93-271 O - 90 - 17

INTRODUCTION OF ASSOCIATES

Mr. NUMMY. On my left is Mr. G. Martin Wagner, who is Acting as Deputy Assistant Secretary for Information Systems. On my right is Mr. Buddy Respass, who is Acting Deputy Assistant Secretary for Administration.

BUDGET REQUEST

I do have a formal statement I will submit for the record. I will provide a few highlights. We are pleased to be here to talk about our budget request for fiscal year 1990. I would point out this was the request submitted in the January budget. The request in total is $83.1 million and 1,081 full-time equivalent positions, which, I would point out, is less than a 2-percent increase for Departmental Offices.

Some of the highlights of the changes from the prior year include $0.3 million to increase the resources for our Office of Tax Policy; $1.3 million increase for our Automated Systems Division; $1.6 million to replace the Departmental Offices' accounting system; $2 million for inflationary increases; $2.1 million increase for the restoration of the fiscal year 1989 cut in the International Affairs appropriation; a $0.6 million increase for the fiscal year 1989 pay raise, which is offset by a corresponding decrease of $0.6 million in other areas; a $0.6 million increase which represents a transfer from the State Department budget to cover various administrative support operations for some of our overseas operations; and finally a $6.1 million transfer to a proposed separate appropriation for the new statutory inspector general.

PREPARED STATEMENT

Mr. Chairman, we believe that these support our policy objectives and will allow us to meet our responsibilities. We appreciate your consideration and are willing to answer any questions you might have.

[The statement follows:]

STATEMENT OF DAVID M. NUMMY

Mr. Chairman and Members of the Committee, I am pleased to appear before you today to discuss the fiscal year 1990 budget request for the Salaries and Expenses appropriation of the Treasury's Departmental Offices. As you are aware, the President's fiscal year 1990 Budget proposes freezing, at fiscal year 1989 levels, the aggregate spending of domestic programs not directly associated with one of his five broad initiatives. Although our programs are included in this category, the President has emphasized that the freeze is flexible, allowing some programs to increase while others are reduced.

We expect that final decisions about whether to increase or decrease specific programs within this freeze category will be determined through top level deliberations and negotiations between the Administration and Congress. Today, we are prepared to discuss a number of initiatives, program reforms and/or reductions to fiscal year 1989 spending levels that were presented in the Budget submitted in January.

It should be emphasized that the President has not proposed that funds be appropriated for these particular adjustments. Therefore, our discussion must be viewed as providing the Committee with information on "candidate" areas which could be increased or decreased within the context of the overall freeze.

This request supports the Secretary of the Treasury in his lead role in formulating financial policies for the Federal Government and in his role as the chief operat-

ing executive of one of the Nation's major Departments. The Departmental Offices' appropriation funds the following essential functions:

—Policy formulation and management of U.S. domestic and international economic, monetary, and financial institutions;
—Formulation of tax policies;
—Management of the fiscal operations of the U.S. Government and the servicing of the public debt; and
—Oversight of Treasury's bureaus.

The fiscal year 1990 budget request reflects our commitment to fulfill these important responsibilities within the limitations of current fiscal constraints.

Our fiscal year 1990 budget request includes $83.1 million and 1,081 full-time equivalent (FTE) positions—an increase of $1.5 million, or less than 2 percent, and a decrease of 109 FTE positions from the fiscal year 1989 proposed authorized level.

The net requested increase is comprised of the following changes:

—$0.3 million and 7 FTE positions to provide the Office of Tax Policy resources to address the increased workload for Congressionally mandated tax policy studies, revenue and budget receipts estimating, regulations and directives, and international tax treaties and agreements;
—$1.3 million and 1 FTE position increase for the Automated Systems Division Data Center Upgrade to accommodate increased workload in the key policy offices;
—$1.6 million to replace the Departmental Offices' accounting system;
—$0.2 million for the Office of the Comptroller's Department-wide Automated Financial Management Information System;
—$0.6 million for contract studies and analysis in the financial services area;
—$0.6 million for annualization of the January 1989 pay raise;
—$2.0 million for inflationary cost increases to maintain current services;
—$2.1 million for restoration of the fiscal year 1989 International Affairs reduction;
—$1.1 million reduction for the non-recurring costs of the relocation into the Treasury Annex;
—$0.6 million reduction reflecting absorption of annualization of the January 1989 pay raise;
—$0.6 million for transfer of Foreign Affairs Administrative Support from the State Department; and
—$6.1 million and 117 FTE positions reduction for the transfer of the Office of the Inspector General to a separate appropriation. (The Reagan Budget, as a result of the Inspector General Act Amendments of 1988 (Public Law 100-504) proposed a separate appropriation for the Department of the Treasury Inspector General's functions.)

Mr. Chairman, the Departmental Offices' budget request supports our policy objectives and will enable us to meet our responsibilities. Thank you for your consideration of our requests.

I will be happy to answer your questions at this time.

JUSTIFICATION FOR INCREASES

Senator DECONCINI. We notice that your request shows an increase of $1.5 million and a decrease of 109 positions from the 1989 enacted level. While you are showing nonrecurring costs of $7.8 million from the fiscal year 1989 relocation into the Treasury Annex, absorption of the annualization of the January 1989 pay raise, and the transfer of internal audit responsibilities to the Office of Inspector General, you are proposing to increase in total, $9.3 million and eight positions for a variety of activities in 1990.

It is kind of difficult to understand why you are doing this. A lot of these increases are proposed for data processing, accounting system enhancement, and restoration of the 1989 reduction in your International Affairs Program. In other words, it looks like your budget should be decreasing because of nonrecurring costs in fiscal year 1990, but that is not what you are doing. How do you explain the justification for these increases under the set of economic circumstances we find ourselves in?

Mr. NUMMY. Your numbers are correct. I would point out, first of all, that the conference report in last year's appropriations process cut the Departmental Offices by $2.1 million, which represented a fairly significant decrease in our International Affairs appropriation. So, our base going into this year has been cut from the prior year. Restoration of that cut represents $2.1 million of the increase.

Of the increase, $2 million is simply to factor in inflation, which actually includes partial absorption of what a true inflationary factor would be. We have no net increase in here for the 1989 pay raise. We have no increase for the fiscal year 1990 pay increase, whatever that shall be.

The other increases do represent some significant modernizations of some very, very old, antiquated systems, one being the Departmental Offices' accounting system, which really is on its last leg. The second is an increase for the data center for Departmental Offices, which has not been expanded or modernized significantly in recent years. It is at or near saturation primarily due to Policy Offices' workload, particularly studies that the Office of Tax Policy is asked to undertake.

FISCAL YEAR 1989 REDUCTION TO INTERNATIONAL AFFAIRS

Senator DECONCINI. We reduced your International Affairs account, as you said, by $2.1 million in fiscal year 1989.

Mr. NUMMY. Right.

Senator DECONCINI. The President has proposed a supplemental request for this program in 1989. I have already approved reprogramming, I think in January, for $440,000, and yet you have a supplemental appropriation request before the Congress for over $2 million.

Mr. NUMMY. I believe that is a transfer from our S&E account.

Senator DECONCINI. Do you really need this transfer authority?

Mr. NUMMY. Yes, sir; we do. I would point out that the $2.1 million reduction is about a 10-percent reduction in that account.

Senator DECONCINI. So actually you are restoring what we cut.

Mr. NUMMY. We are asking to transfer resources from another account.

Senator DECONCINI. But what you are saying to us is, you can't live with the cut we made in the International Affairs account.

Mr. NUMMY. Well, I would point out that the International Affairs function handles issues like Third World debt, international tax treaties, international financial agreements, and monetary stability. A 10-percent reduction in that account in the current climate, with international issues being in the forefront, would have pretty significant consequences for the Secretary in his ability to carry out those responsibilities.

CONTRACT STUDIES AND ANALYSIS

Senator DECONCINI. We notice that your budget includes a proposed increase of $550,000 in fiscal year 1990 to fund contract studies and analysis for a variety of different issues. Your justification indicates that some of this money will be spent on white collar crime and the effectiveness of the Secret Service investigations, and also to identify strategies to improve the effectiveness of drug

interdiction programs. Why shouldn't the Secret Service, the U.S. Customs Service, and the Bureau of Alcohol, Tobacco and Firearms undertake these studies themselves?

Mr. NUMMY. I think those are possible areas that were submitted in the original justification. There have been no final decisions about what that money would be used for. The Departmental Offices has an overall management responsibility for all of its bureaus. We are always looking for ways to make sure that our programs are as cost-effective as they possibly can be.

Senator DECONCINI. You would have no trouble, would you, directing Customs to do such a study? If the Secretary told the Commissioner to do it, he would do it, wouldn't he?

Mr. NUMMY. Yes; I believe that he would.

Senator DECONCINI. Do you know offhand if Customs has any money in its budget to do these studies?

Mr. NUMMY. I don't know offhand, but I certainly could find out and submit that for the record.

[The information follows:]

The Internal Revenue Service has approximately $12 million designated for research in the fiscal year 1990 budget request. However, their research efforts are conducted from a more practical and technological perspective. These efforts encompass such areas as: development of expanded electronic filing, electronic payment of taxes, taxpayer service surveys, testing of new forms and instructions for reader comprehension.

In addition, the U.S. Customs Service has designated approximately $1.0 million in fiscal year 1990 for engineering and technological development efforts.

Funding this request will enable us to conduct studies from a perspective which spans functional and organizational boundaries within the Department.

To assure relevance and to prevent unnecessary duplication, proposed projects will be reviewed by appropriate policy officials before final selections are included in the approved research plan each September.

INCREASES FOR OTHER SERVICES

Senator DECONCINI. I notice also that in your object classifications you show a $4.3 million increase over the 1989 enacted level of $7.7 million for other services. This represents over a 50-percent increase for this classification. Can you explain what activities you propose these funds to be used for and why you have to have a 50-percent increase?

Mr. NUMMY. This is object class?

Senator DECONCINI. Yes, object class. It is called "other services."

Mr. NUMMY. $600,000 is the transfer I mentioned earlier from the State Department to support our overseas activities, $1.4 million is for data processing contracts, and $2.9 million is for building maintenance, ADP, and other repairs. I can provide a detailed list of the increases for the record.

Senator DECONCINI. I wish you would. I thought we provided all the funds for building maintenance, or most of it, last year. Maybe I am mistaken in my recollection. I could be wrong on that.

[The information follows:]

Activities budgeted as "other services" include funds for services obtained from other Federal agencies or by contracts with the private sector. These services range in nature from building maintenance to data processing support. In the fiscal year 1990 budget request, the increases in other services related to building maintenance are not for new initiatives but for inflation (maintaining current levels) and restora-

tion of the fiscal year 1989 Conference reduction. A break-out of the increase for other services follows:

Other Services	*Amount ($000's)*
Maintaining Current Levels	$596
Restoration of the Fiscal Year 1989 Conference Reduction	234
Transfer from State Department	628
Data Center Upgrade	[1] 727
Financial Management System Replacement	[1] 1,499
Contract Services and Analysis	550
Office of the Comptroller	150
Absorption of Pay Increase	−11
Transfer to Statutory Inspector General Appropriation	−47
Net Increase	4,326

[1] The balance of the total required for these projects are included in other object classes.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. I have no further questions. We will submit the balance of the questions for the record. Thank you, gentlemen.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR DECONCINI

Adherence to Appropriate Reprogramming Guidelines

Senator DeConcini. Your FY90 budget also indicates that you have reprogrammed $3.6 million from non-pay object classes to salaries and personnel benefits to cover the increased cost of pay and related employee benefits in 1989. Were the appropriate reprogramming guidelines adhered to in the redirection of these funds?

Mr. Nummy. Yes. Notification and explanation of proposed shifts for FY 1989 were included for the Subcommittee's consideration in the Budget submission for FY 1990. In the submission of the Departmental Offices' Fiscal Year 1990 budget, a proposed level of $81.6 million for Fiscal Year 1989 is reflected. This proposed level includes the absorption of a Congressionally mandated $2.1 million reduction in the International Affairs Appropriation. It also identifies $3.2 million in changes to salary and benefit object class funding levels that are necessary for the Departmental Offices to carry-out the policies and programs of the Secretary of the Treasury.

Update of the Treasury Annex Renovation Project

Senator DeConcini. The Committee provided $1.09 million in FY89 to relocate the Treasury Annex. Can you provide me with an update on this project? Will the work be completed in FY89? Are there any additional costs associated with this relocation that have yet to be funded? Please explain.

Mr. Nummy. The Annex will not be ready for occupancy until December 1989 (FY 1990). The schedule for occupying the building has changed from October 1989 (see attachment 1) to December 1989 (see attachment 2). The funding in the amount of $1.09 million was provided in FY 1989 to provide furnishings (systems furniture) and moving expenses for the relocation to the Treasury Annex. There will be no additional costs for this relocation.

ATTACHMENT 1

TREASURY ANNEX BUILDING RENOVATION PROJECT
SCHEDULE

- Funds ($5,000,000) Available ..... Jul. 20, 1987
- Bid Package To Procurement ..... Nov. 27, 1987
- Bid Opening ..... Jan. 28, 1988

- Construction Contract Awarded ($4,945,610) ..... Mar. 28, 1988

- Notice To Proceed (Delay due to a protest by one of the bidders) ..... Aug. 15, 1988

- Construction Start ..... Aug. 29, 1988
  (Present Status as of Oct. 13, 1988 - Demolition is about 75% Completed)

- Construction Completed ..... Nov. 27, 1989
  Completion will be done in phases as follows:
  6th Floor Completed 06/89
  5th Floor Completed 07/89
  4th Floor Completed 08/89
  3rd Floor Completed 09/89
  2nd Floor Completed 10/89
  1st Floor Completed 11/89

- Furniture Delivery and Installation in Phases as follows:

6th Floor (Delivery only)	09/89
5th Floor	09/89
4th Floor	10/89
3rd Floor	11/89
2nd Floor	12/89
6th Floor (Installation only)	01/90
1st Floor	01/90

- Move Occupants to the Building in Phases Following Furniture Installation as follows:

  5th Floor Occupied by 10/89
  4th Floor Occupied by 11/89
  3rd Floor Occupied by 12/89
  2nd Floor Occupied by 01/90
  1st & 6th Fl. Occupied by 02/90

ATTACHMENT 2

TREASURY ANNEX BUILDING
RENOVATION PROJECT SCHEDULE

- Funds ($5,000,000) Appropriated..... FY 1987

- Bid Package To Procurement..... Nov. 27, 1987

- Bid Opening..... Jan. 28, 1988

- Construction Contract Awarded.....$4,945,610... Mar. 28, 1988

- Current Change Orders Cost as of May 1989..... $416,565

- Projected Change Orders Cost for Future Procurement Action..... $300,000

- Notice To Proceed (Delay due to a protest by one of the bidders)..... Aug. 15, 1988

- Construction Start..... Aug. 22, 1988
  (present Status as of May 17, 1989 - Construction is about 50% Completed)

- Construction Completed..... Jan. 27, 1990
  Completion will be done in phases (2 month delay)
  as follows:

6th Floor Completed 08/89	(2 month delay)
5th Floor Completed 11/89	(4 month delay)
4th Floor Completed 09/89	(1 month delay)
3rd Floor Completed 10/89	(1 month delay)
2nd Floor Completed 12/89	(2 month delay)
1st Floor Completed 01/90	(2 month delay)

- Furniture Delivery and Installation in Phases as follows:

6th Floor - 11/89 (installed 2 months ahead of previous schedule)
5th Floor - 01/90 (4 month delay)
4th Floor - 12/89 (2 month delay)
3rd Floor - 02/90 (3 month delay)
2nd Floor - 03/90 (3 month delay)
1st Floor - 04/90 (3 month delay)

- Move Occupants to the Building in Phases Following Furniture Installation as follows:

6th Floor Occupied by 12/89	(2 months ahead of schedule)
5th Floor Occupied by 02/90	(4 months delay)
4th Floor Occupied by 01/90	(2 months delay)
3rd Floor Occupied by 03/90	(3 months delay)
2nd Floor Occupied by 04/90	(3 months delay)
1st Floor Occupied by 05/90	(3 months delay)

Merged Appropriation

Senator DeConcini. I see your FY90 budget proposes to include international affairs activities under your salaries and expenses account. Can you explain to the committee why this change is necessary and what would be the impact if it was not approved as a combined account for Fiscal Year 1990?

Mr. Nummy. Even though Departmental Offices is funded by two appropriations, the Secretary of the Treasury administers the bureau as a single, integrated organization that provides policy analysis and support to him and staff coordination for the entire Department. In that sense, the International Affairs activity is not organizationally different from the Tax Policy, Economic Policy, Domestic Finance, etc., activities. Accordingly, the Office of Management and

Budget and other agencies treat Departmental Offices as one organizational unit.

As the Senate has noted in its past support of merging these accounts, a single appropriation for Departmental Offices will facilitate administration of Departmental Offices' resources. It will eliminate the need to duplicate standard reports and maintain separate accounting records. It will also enhance the integration of the financial planning and management, which will then mirror the programmatic planning, management, and operation of Departmental Offices as a single organization.

Failure to approve merging the two appropriations would require the continued duplication of standard reports and accounting records, the continued use of valuable and scarce staff time for manual financial management reporting functions, and would continue to impede the overall management and planning process of the Departmental Offices.

Office of Tax Policy Increase

Senator DeConcini. I notice you are proposing an increase of $300,000 and 7 positions for the Office of Tax Policy. Your justification states that this increase is necessary to sustain expanded workloads related to revenues and receipt estimates. Can we expect to see more accurate estimates on IRS revenues if this increase is approved?

Mr. Nummy. Additional Office of Tax Policy staff resources will allow the office to meet the increasing volume of requests for estimates and to give each estimate a more extensive and deliberate consideration.

Revenue estimating is complex and dependent on many factors, including, but not limited to, the accuracy and reliability of the economic forecast, complex interactions of tax code provisions, and the expectations of taxpayer behavioral responses. The Internal Revenue Service is initially responsible for certain estimates associated with compliance (tax gap) and yields associated with compliance enforcement. The Office of Tax Policy works closely with the Internal Revenue Service, the Office of Management and Budget, and the Treasury management staff in reviewing the Internal Revenue Service estimates and funding issues. All Federal Budget receipts and revenue estimates are either produced by or reviewed by the Office of Tax Policy. By distributing the burden of the overwhelming number of estimates required of this office among more people, additional analyses and review can be devoted to each request.

The increase requested, and the justification presented, was not limited to revenue and budget receipts estimates' requirements. Considerable emphasis was placed on the critical need to address the growing backlog of international tax treaty work that was prompted by tax legislation over the past few years.

This requires revising virtually all existing treaties and/or initiating new ones (some 60 treaty projects are now on the roster). A limited number of international attorneys in the Office of Tax Policy make it impossible to accomplish this workload. Likewise, the growth in the number of Congressionally mandated studies (some 32 are now on our books) has greatly increased the workload of both the economic and legal staff in both the domestic and international divisions. Additionally, the Office of Tax Policy plays a major role in meeting the Treasury Department's responsibilities with regard to various trusts funds. The Office of Tax Policy's participation in trust fund issues has widened dramatically in the past two years as a result of its central role and expertise in the development of budget receipts forecasts and to the need for centralized leadership to address several growing problems in the accounting for trust fund monies.

Because of the large volume of tax legislation in recent years, particularly including the Tax Reform Act of 1986 and subsequent technical corrections, there is a substantial inventory of regulations projects involving both domestic and international tax issues that must be completed. It is imperative that the Office of Tax Policy have adequate resources to address the problem of promulgating clear and timely administrative guidance to taxpayers in order that they may better understand and comply with changes in the Code.

In addition to the above, there are ever-growing demands for testimony, responses to an extraordinary number of technical inquiries coming through our correspondence system, analysis of tax proposals from numerous sources, and participation in tax legislative initiatives and mark-up activities on the Hill.

Upgrading data processing equipment and replacement of accounting system

Senator DeConcini. One of your largest increases proposed in your FY90 budget request is $3.1 million to upgrade your data processing equipment and replace your accounting system. Your justification states that these increases are essential for economic forecasting and analysis. What is wrong with your present computer system and how specifically do you intend to expand your economic analysis and forecasting capabilities with these new systems?

Mr. Nummy. While the present clustered computer system is well-suited to the economic forecasting needs of Departmental Offices, it is becoming severely strained because of a steadily increasing workload. Current analysis indicates that, in Fiscal Year 1990, the system will be fully saturated and will not have the capacity to support the additional projected workload. The expanded workload includes critical international and domestic economic analysis as well as a variety of administrative applications.

The sharp increase in the utilization of the cluster system is directly related to the introduction and expanded use of a number of state-of-the-art software tools for statistical analysis and data base management:

o Forecasting, Analysis and Modeling Environment (FAME) software, which permits the manipulation of time series economic indicators for financial calculation, data analysis, econometrics and forecasting. Policy offices currently use this software to analyze the International Monetary Fund data base on foreign exchange rates and balance of payments data to analyze other critical economic information and to produce the Weekly Credit Memo and portions of the Quarterly Financing Report.

o Statistical Analysis Software (SAS), which supports the statistical and mathematical analysis, business planning, forecasting and decision support activities of the economic and tax policy offices. Policy offices currently use this software to produce the Quarterly Review of Interest Volatility required by the Government Securities Act and to simulate the revenue impact of proposed tax law modifications. Future applications for SAS include the analysis of tax information data base files and reporting automatically in graphic format conclusions about the data and trends in tax data.

Even with no further enhancements, policy offices predict that there will be a 20% increase in users of the existing databases and statistical software during Fiscal Year 1990. In addition, the following projects are in progress and will further increase the utilization of the current cluster system:

o Expansion of the Securities Data System to collect additional information and provide for expanded reporting and analysis of marketable and non-marketable Treasury securities, matured debt and statutory debt;

o Migration of a system to provide analysis and forecasts of government receipts, outlays and financing in relation to monthly cash balances;

o Expansion of the Individual Tax Model to process multi-year data samples rather than a single year;

o Expansion of the databases and analysis tools for the Office of Depreciation Analysis;

o Expansion of the foreign credit reporting systems to allow rapid analysis of debt service payment streams;

o More sophisticated trade-weighted analysis models to provide the capability to analyze the impact of a variety of economic factors;

o Improved databases and forecasting for balance of payments and foreign exchange rates.

Delay of Projects

Senator DeConcini. If the $3.1 million proposed for automated data processing activities is not approved, what would be the impact in FY90? Could this project be delayed? If not, why not?

Mr. Nummy. Two major data processing initiatives are planned: an upgrade to the cluster computer system and a replacement for the current financial management system. Delaying funding for these activities would have a very severe impact on major policy support and administrative functions.

Cluster Computer System Upgrade: Present projections of future workload indicate that the cluster computer system will be saturated by mid Fiscal Year 1990. If this upgrade is not approved, expansion of critical economic and tax applications as well as administrative applications will have to be delayed. For example, the expansion of the Securities Data System to collect additional information and provide for expanded reporting and analysis of Treasury securities, matured debt and statutory debt will be delayed. In addition, the expansion of the Individual Tax Model to process multi-year data samples rather than single year samples will be delayed significantly. Other applications to analyze and report on debt payment streams, depreciation, balance of payments and foreign exchange rates will be severely impacted and will be delayed indefinitely. These applications are essential so that the Department of the Treasury can meet the challenges of the 1990's in providing up-to-date analysis and reporting of economic and tax related issues. This computer upgrade is essential to provide Treasury with the computer capacity to develop and implement these important applications.

In addition, since workload analysis shows that the clustered computer system will be saturated by mid Fiscal Year 1990, existing applications would begin suffering a degradation in response time if the upgrade is disapproved or delayed. Currently, 1250 users rely on this computer system for tax model processing, economic analysis and up-to-date economic and administrative information as well as for many office automation activities, such as electronic mail, word processing and calendar information. If the system is saturated, existing tax model processing, as well as existing economic analysis will be severely impacted. In order to continue essential policy support, significant cuts in existing administrative services would be required. These cuts would, in fact, adversely impact the delivery of all Departmental Offices products that depend on fast, effective automated solutions. Thus, the efficient, effective processing of all economic analysis, tax model processing and dissemination of information within Departmental Offices will be hampered by the lack of sufficient data processing support through the cluster computer system.

Accounting System Replacement: The Departmental Offices and the Financial Management Service have established a cross-servicing arrangement to provide a new financial management information system for Departmental Offices. The requested funding will provide for the costs required to support the installation effort so that the system will be operational by Fiscal Year 1991.

The impact of not funding this initiative in FY 1990 would be to halt Treasury's effort to standardize, consolidate, and modernize its financial management systems which is in accordance with the guidance and priorities established by the Joint Financial Management Improvement Project. It would force the Departmental Offices to continue processing on an accounting system that was developed over ten years ago and is antiquated to the point of being duplicative and inefficient.

Foreign Affairs Administrative Support

Senator DeConcini. One other increase proposed for FY90 involves a transfer of budget authority previously assumed by the State Department for Foreign Affairs Administrative Support. Can you tell me what activities have been provided for Treasury from the State Department and how the decision was made to transfer $628,000 in FY90 for these activities?

Mr. Nummy. The Treasury Department has been informed that the State Department intends to expand the Foreign Affairs Administrative Support system in FY 1990. This will require recipient agencies, such as the Treasury Department, to pay for services which the State Department believes are now provided free-of-charge. The Treasury Department maintains attaches in several overseas locations, which are currently supported by the State Department.

The State Department's proposal expands the Foreign Affairs Administrative Support system in FY 1990 to include the overseas operational costs of electronic communications, information systems and building operating expenses. In addition, the State Department plans to include costs associated with replacing overseas common support motor vehicles and the domestic costs incurred for communications and medical support which benefit other agencies. The State Department has determined that these costs are now almost solely funded by the State Department.

The Office of Management and Budget (OMB), in the FY 1990 OMB Passback, instructed the Departmental Offices to include this transfer in the Fiscal Year 1990 Congressional budget submission.

Priority of Requested Increases

Senator DeConcini. Can you give us a priority ranking of all the increases proposed in your Fiscal Year 1990 budget?

Mr. Nummy. Our proposed increases can be divided into two separate categories -- those required to continue the same level of support for the Secretary of the Treasury as is provided currently, and those required for new initiatives to enhance the level of support. Of our requested increases, the highest priority is funding to maintain our current operating levels (MCLs). These funds ($2.6 million) are required for the Departmental

Offices to absorb inflationary cost increases while continuing to provide our current level of service. (Please note that this increase is partially offset by a decrease of $600,000 from the absorption of pay related items: resulting in a net increase of only $2.0 million for MCLs.)

Thé next item, in order of priority, is the restoration of the Fiscal Year 1989 Conference reduction ($2.1 million) to the International Affairs appropriation. In Fiscal Year 1989, we were able to absorb the cut in the administrative support areas of the Departmental Offices at a significant sacrifice for support services and with the delayed implementation of many Departmental priority programs. If the reduction is not restored, budget resources will have to be reallocated from international affairs activities, other essential Departmental programs, as well as, policy level offices, to insure that an adequate level of administrative support is available for the Secretary of the Treasury in Fiscal Year 1990. We can not endure the reduction in the International Affairs Appropriation and continue to support, at current levels, the Secretary's requirements.

The increases related to program initiatives reflect the following order of priority:

1. Funding of $1.6 million is requested to replace Departmental Offices' current bureau accounting system with an integrated financial management information system. The current system is antiquated, requires significant manual interfaces, and no longer meets the needs of senior management in terms of scope and timeliness.

2. An increase of $1.3 million is requested to provide for an upgrade in the Departmental Offices' Data Center. These funds will provide for improvements in the current VAX cluster, which will increase processing capability. This increased capability is required to support the increases in statistical modeling, tax modeling, and ORACLE relational data base usage that are necessary for economic and tax forecasting.

3. An increase of $300,000 and 7 FTE is requested for the Office of Tax Policy. This increase is necessary as a result of the increased focus and workload related to revenue and budget receipts estimating; and the need to provide for timely promulgation of regulations, directives on tax related issues, revenue rulings, and other types of published administrative guidance that may be relied upon by taxpayers.

4. An increase of $150,000 is requested to upgrade the Treasury Department's key financial management information system. Enhancements to this system will be required to accommodate changes in the overall reporting structure as established by the Joint Financial Management Improvement Program.

5. Additional funding ($550,000) is requested to provide for a research program to improve Treasury's formal resource allocation process and financial management policies. These studies of major issues will

require complex analytic methods and staff resources beyond those available within the Departmental Offices. Final reports of findings will be widely distributed throughout Treasury, the Administration, the Congress and to other qualified recipients.

A transfer of $628,000 is required to pay for services previously provided to the Treasury's overseas activities by the State Department at no cost to the Department of the Treasury. The State Department will no longer be appropriated the funds to cover these costs; therefore, the activity requiring the services will be required to fund them. This increase in the Departmental Offices' budget merely represents the transfer of the cost of these services from the State Department to the user activity, in this case, the Treasury Department.

QUESTIONS SUBMITTED BY SENATOR DOMENICI

PROPOSED SUPPLEMENTAL

Question: Fiscal Year 1989 Appropriation language is proposed to allow up to an additional $2,063,000 to be transferred from the Department`s Salaries and Expenses account to the International Affairs account. What is the basis of this request and what will be the impact if this funding is not provided?

The Subcommittee recently approved the Department's request to exercise its general transfer authority to move $440,000 from the Departmental Offices' Salaries and Expenses appropriation to the International Affairs appropriation. Can the amount requested for statutory transfer now be reduced by the amount of this transfer? If the statutory transfer request is approved by Congress, where will the offsetting reduction be taken in activities of the Departmental Office's Salaries and Expenses account?

Answer: The International Affairs appropriation funds the personnel and activities which support the Secretary in developing and implementing U.S. policies on matters of international finance, economics and investment.

The FY 1989 reduction of $2,063,00 represents approximately a 10% cut from the $24.1 million originally requested for international affairs activities. However, the Department is not seeking restitution of these funds in FY 1989. Instead, the proposed supplemental language

provides the flexibility to spread the reduction across both Departmental Offices' appropriations, thereby providing options for the Secretary to manage the cut across all programs and activities.

To remain within a budget for International Affairs reduced by more than $2 million, the Departmental Offices has reduced the level of critical support services such as printing, training, travel and acquisition of ADP equipment. This has created a less-than-optimal operational support environment affecting all offices. If the statutory transfer authority is not approved, the adverse impacts imposed by this cut could not be ameliorated.

Due to the subcommittee's recent approval of the $400,000 transfer request, it would be possible to reduce the statutory transfer authority by this amount. If approved, the reduction would be taken from the Departmental Management and Administration and Building Maintenance and Operations activities.

MERGED APPROPRIATIONS

QUESTION: The Fiscal Year 1990 request again proposes to merge the Departmental Offices Salaries and Expenses and International Affairs appropriations. This is a proposal that our counterpart House Subcommittee has consistently rejected.

Treasury has argued in the past that this account merger would simplify things for it operationally, and also eliminate the need to duplicate accounting, personnel and payroll reports. On the other hand, the Department has assured this subcommittee that if the two accounts were merged, we would be provided the same level of detail we now receive. That being the case, what savings would be achieved with the one account? Are any savings included in the Fiscal Year 1990 request as a result of the one-account structure? If so, how much?

ANSWER: Even though Departmental Offices is funded by two appropriations, the Secretary of the Treasury administers the bureau as a single, integrated organization that provides policy analysis and support to him and staff coordination for the entire Department. In that sense, the International Affairs

activity is not organizationally different from the Tax Policy, Economic Policy, Domestic Finance, etc., activities. Accordingly, the Office of Management and Budget and other agencies treat Departmental Offices as one organizational unit.

In the Executive Branch, there are other Departmental accounts with international functions that are not desegregated (for example, the Department of Labor). The dual source of funding for Treasury's Departmental Offices derives from the time, prior to 1979, when the International Affairs program was financed within the Exchange Stabilization Fund (an off-budget entity). The split in funding was necessary as long as one account (Salaries and Expenses) was appropriated and one (Exchange Stabilization Fund) was not appropriated. When the International Affairs program was separated from the Exchange Stabilization Fund and financed on budget, the rationale for split funding no longer existed.

As the Senate has noted in its past support of merging these accounts, a single appropriation for Departmental Offices will facilitate administration of the Bureau's resources. It will eliminate the need to duplicate standard reports and maintain separate accounting records. It will also enhance the integration of financial planning and management, which will then mirror the programmatic planning, management, and operation of the bureau as a single organization.

Savings of $100,000 and three positions were proposed as a result of the merger request in the FY 1983 budget. These savings were accepted by the Congress even though the merger request was not approved. Therefore, no additional savings are projected for 1990.

FINANCIAL MANAGEMENT SYSTEM REPLACEMENT PROJECT

Question: The Departmental Offices' Fiscal Year 1990 request identifies $1,649,000 to replace the current Financial Management System through a cross-servicing arrangement with the Financial Management Service. Please explain this replacement further.

Answer: On February 2, 1987, the Office of Management and Budget (OMB) and the Department of the Treasury agreed to a joint initiative and

Memorandum of Understanding designating the Financial Management Service (FMS) as the lead agency for financial management system reform. Among the responsibilities assigned to FMS was the task of developing a capability to provide financial management services to agencies through FMS Regional Finance Centers.

Although Departmental Offices had been evaluating new systems for several years to replace its out-of-date accounting system and financial reporting procedures, it did not originally pursue this arrangement, primarily because the available software package would not satisfy Departmental Offices' overall financial management requirements. However, the services offered by FMS were expanded significantly at the beginning of FY 1989 when the General Services Administration granted approval to acquire the American Management Systems' (AMS) Federal Financial System software package, permitting its installation at the FMS cross-servicing facility. During the Treasury FY 1990 budget passback, Departmental Offices was directed to secure, and FMS to provide, support for the Departmental Offices' application at FMS through a cross-servicing arrangement.

The cross-servicing arrangement will replace an accounting system that was developed over ten years ago by Departmental Offices staff. The new system will provide state-of-the-art technology and be more responsive to changing management requirements. In addition, the new system will reduce data entry requirements and eliminate many manual record-keeping operations. The new system will integrate the commitment accounting function into the financial management function, thereby eliminating the separate commitment accounting system that is currently maintained. It will also provide an automated financial reporting capability that is fully integrated with the accounting data base.

The $1,649,000 requested in the FY 1990 budget for the replacement of the current financial management system will primarily finance Departmental Offices' contribution to FMS for establishing the cross-servicing arrangement. The request includes funding for the costs of FMS personnel, vendor support services, time-sharing, and mainframe lease/maintenance required to support the existing system during the transition.

The anticipated timeframe for the financial management system replacement is provided below.

FY 1989

- o Project plans completed
- o Plans completed to adapt off-the-shelf software to Departmental Offices' requirements
- o System software adapted

FY 1990

- o Site prepared
- o User guides prepared and personnel trained
- o System operations tested

FY 1991

- o Cutover to production system completed
- o System fully implemented

For the next several years, this cross-servicing arrangement will only address the needs of Departmental Offices. At the same time, the Administrative Financial Management Information System (AFMIS) will continue to be the Department's financial management information system that provides reporting oversight of all Treasury bureaus' financial operations.

DATA CENTER UPGRADE

Question: The Fiscal Year 1990 request includes $1,308,000 and one FTE position for the upgrade of the Departmental Offices' Data Center. Please describe the planned upgrade. What is the anticipated timeframe?

Answer: Upgrade of the current VAX processing capability is a mandatory initiative for the Departmental Offices. The current processing capability is at or near saturation. This means that no new programs for policy offices can be accommodated without significant deterioration in response time for all applications on the system. Furthermore, there are major program expansions for key policy offices which cannot be effectively processed in the current VAX environment. These are:

- o Expanded utilization of Forecasting, Analysis and Modeling Environment (FAME) software, which permits the manipulation of time series economic indicators for

financial calculation, data analysis, econometrics and forecasting. Policy offices currently use this software to analyze the International Monetary Fund data base on foreign exchange rates and balance of payments data; to analyze other critical economic information; and to produce the Weekly Credit Memo and portions of the Quarterly Financing Report.

o Expanded utilization of Statistical Analysis System (SAS) software, which supports the statistical and mathematical analysis, business planning, forecasting and decision support activities of the policy offices. Policy offices currently use this software to produce the Quarterly Review of Interest Volatility required by the Government Securities Act and to simulate the revenue impact of proposed tax law modifications.

o Development and implementation of other applications which support policy offices, such as International Monetary Affairs, Enforcement, Tax Policy, Domestic Finance, Economic Policy, and the General Counsel.

The upgrade will replace the older, slower, VAX 11/780 and VAX 11/750 computers with the higher capacity VAX 8820. The $1,308,000 requested in FY 1990 includes one FTE position ($33,000), as well as lease ($550,000), maintenance ($225,000) and software costs ($500,000) for a VAX 8820.

The significant milestones for the data center upgrade are provided below.

FY 1989

o Solicitation package submitted to Procurement.

o Departmental approval for procurement obtained.

FY 1990

o Delegation of Procurement Authority received from GSA.

o Contract awarded to vendor.

o Delivery of equipment accepted.

o Acceptance testing completed.

IMPACT OF THE INSPECTOR GENERAL TRANSFER

Question: What will be the impact of the Inspector General transfer on the Departmental Offices? What services will the Department provide to the new statutory Inspector General?

Answer: The transfer will shift the resources currently available within the Salaries and Expenses appropriation for the Inspector General's function to a newly established appropriation for the Office of the Inspector General.

Both direct and support costs for the Inspector General function will be transferred. As a result, the Inspector General currently plans to reimburse the Departmental Offices for personnel, payroll, printing, procurement, accounting and other administrative support services.

FOREIGN AFFAIRS ADMINISTRATIVE SUPPORT

Question: A transfer of $628,000 from the State Department to the Treasury Department for Foreign Affairs Administrative Support is included in the FY 1990 Treasury budget estimate. How will these funds be used?

Answer: The Treasury Department has been informed that the State Department intends to expand the Foreign Affairs Administrative Support system in FY 1990. This will require recipient agencies, such as the Treasury Department, to pay for services which are now provided free-of-charge. The Treasury Department maintains attaches in several overseas locations, which are currently supported by the State Department.

The State Department's proposal expands the Foreign Affairs Administrative Support system in FY 1990 to include the overseas operational costs of electronic communications, information systems and building operating expenses. In addition, the State Department plans to include costs associated with replacing overseas common support motor vehicles and the domestic costs incurred for communications and medical support which benefit other agencies. The State Department has determined that these costs are now almost solely funded by the State Department.

As a result, Departmental Offices' FY 1990 budget request includes a transfer from the State Department to the Treasury Department of $628,000, which is the State Department's estimate of our share of these costs.

CONTRACT STUDIES AND ANALYSIS

Question: The Fiscal Year 1990 request includes $550,000 to fund contract studies and analyses on broad issues and concerns facing the Department. What is the amount being spent on such studies in Fiscal Year 1989 and what is the Fiscal Year 1989 study plan? Several potential topics for study are listed for Fiscal Year 1990. How are the individual Treasury Bureaus and offices involved in the process of determining appropriate Departmental study areas?

Answer: The Department has increasingly become involved in issues requiring detailed study, particularly in the areas of cost reduction and improved effectiveness in Treasury operating programs. In many cases, these major issues require complex analytic methods and staff resources beyond those available within our organization.

In response, the contract studies and analysis is a new initiative for FY 1990. The proposal is to establish a continuing research program within the Department Offices' budget, designed to improve Treasury's formal resource allocation process and financial management policies. Program accomplishments will be described annually in budget justifications presented to Congress.

While projects have yet to be selected for a study plan, potential areas of analysis for FY 1990 include:

-- ADP investments versus staff savings and productivity increases associated with these investments:

-- ways to provide for more accessible and accurate tax information and other taxpayer services; and

-- measuring the net cost impact of staff turnover and step/grade increases for budget estimation purposes.

In making final decisions on which projects to pursue, the Department would seek comments and suggestions from the bureaus.

TERMINATION OF GENERAL REVENUE SHARING

Question: What is the current status of the Revenue Sharing Trust Fund?

Answer: Most of the funds in the Revenue Sharing Trust Fund, approximately $180 million, were returned to the Treasury General Fund. Only about $20,000 is being held in the fund to pay a claim from a local government for some entitlement checks that were not received.

Background:

Termination of the General Revenue Sharing program became effective on October 18, 1986, as required by Section 14001 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272).

The Balanced Budget and Emergency Deficit Control Act of 1985, commonly referred to as "Gramm-Rudman-Hollings," sequestered approximately $180 million of Revenue Sharing funds authorized by Congress.

The National Association of Counties and others filed suit against the Secretary of the Treasury seeking distribution of the sequestered funds. The U. S. District Court for the District of Columbia ruled in favor of the plaintiffs. However, the U. S. Court of Appeals for the District of Columbia reversed the District Court's decision in March 1988. In September 1988, the National Association of Counties requested the U. S. Supreme Court to review the Court of Appeals' decision. The U. S. Supreme Court declined to hear the case.

In December 1988, the Financial Management Service executed a warrant transferring the remaining funds to the General Fund, except for approximately $20,000 being held in the Trust Fund to pay a claim from a local government for entitlement checks that were not received.

MINORITIES IMPROVEMENTS

QUESTION: What progress has Treasury's Departmental Offices made to improve its representation of women and minorities in all pay plans?

ANSWER: The representation of women and minorities in the Departmental Offices' workforce has increased. As information from the Office of Personnel Management's Central Personnel Data File reflects, the most notable increase has been in the placement of women in the workforce.

Overall, the rates of representation for minority group members/females over the last fiscal year have not decreased for any of the major components of Departmental Offices, and some offices made significant progress. For example, the Office of the Assistant Secretary for Enforcement achieved a 15% increase in its female workforce. The employment of Black males rose significantly in Legislative Affairs, Domestic Finance and the Office of the Fiscal Assistant Secretary. The Office of Tax Policy increased employment of Black females by 4%.

A prime indicator of progress in increasing representation of women and minorities in the workforce is their identification and placement in senior management and policy positions of significant challenge. Over the past 18 months in Departmental Offices, of 10 career Senior Executive Service positions announced under Merit Promotion, 5 (50%) were filled, either through new appointment or promotion, by females or minority group members.

Departmental Offices recognizes that efforts to attract Hispanics and other minorities needs to be expanded. As part of its 1988 Affirmative Action Plan, Departmental Offices, with assistance from the Office of Personnel Management, expanded its standard distribution of job announcements by nearly threefold. Departmental Offices' job announcements now reach nearly 500 Federal, public and private sector organizations, including virtually all special emphasis organizations in the Washington metropolitan area, as well as numerous such organizations nationwide.

OFFICE OF THE INSPECTOR GENERAL

STATEMENT OF MICHAEL R. HILL, INSPECTOR GENERAL

ACCOMPANIED BY:

ROBERT P. CESCA, DEPUTY INSPECTOR GENERAL
CHARLES D. FOWLER, III, ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS
JAY M. WEINSTEIN, ASSISTANT INSPECTOR GENERAL FOR AUDIT
GARY L. WHITTINGTON, ASSISTANT INSPECTOR GENERAL FOR AUDIT

INTRODUCTION OF WITNESS

Senator DECONCINI. Next we will proceed to the Office of the Inspector General. Mr. Michael Hill, the Treasury Inspector General, will be testifying. We welcome you, Mr. Hill.

Mr. HILL. Good morning, Mr. Chairman.

Senator DECONCINI. How are you, Mr. Hill? We are glad to have you. Please introduce your people who are with you. Your full statement will be put in the record. Go ahead, Mr. Hill.

Mr. HILL. I am pleased to be here today to present the fiscal year 1990 appropriation request for the Office of Inspector General. Thank you, Mr. Chairman, for inviting me. I am appearing before you for the first time. Therefore, I am submitting my biography for the record.

Senator DECONCINI. Without objection, it will appear in the record with your full statement.

Mr. HILL. Thank you, sir. I would also like to introduce Robert Cesca, the Deputy Inspector General. My Assistant Inspectors General have also accompanied me.

HISTORY OF TREASURY INSPECTOR GENERAL

First, I would like to give you a brief history of the Office of the Inspector General at Treasury. Prior to 1978 there was no central audit or investigative body within the Department.

In 1978, Secretary Blumenthal established the Office of the Inspector General. At that time he assigned the Office of the Inspector General oversight responsibilities for investigative programs in all bureaus and also investigations of departmental significance.

In 1980, then-Secretary Miller consolidated the internal auditors, who conducted audits of the Office of the Secretary, into the Office of the Inspector General.

Then in 1982 the Acting Secretary, McNamar, further consolidated internal audits and investigations into the Office of the Inspector General, which included the Federal Law Enforcement Training Center and the non-law enforcement bureaus, those being the Financial Management Service, the Bureau of the Public Debt, the Bureau of Engraving and Printing, the U.S. Mint, the Office of the Comptroller of the Currency, and the Savings Bond Division.

On October 18, 1988, President Reagan signed the Inspector General Act amendments which established a statutory Inspector General at the Treasury Department effective next month, April 16, 1989. What that does, essentially, is consolidate the internal auditors of the Bureau of Alcohol, Tobacco and Firearms, the U.S. Customs Service and the U.S. Secret Service into the Office of the Inspector General.

RESOURCES, RESPONSIBILITIES, AND ACCOMPLISHMENTS

Since 1984 resources for our office have shown modest changes, and I am entering into the record an exhibit, exhibit 1, which shows those changes from 1984 to 1988.

Under the law, the Office of Inspector General will continue oversight responsibilities for the law enforcement investigative programs of Customs, Secret Service, Bureau of Alcohol, Tobacco and Firearms, and IRS, and the internal audit function at IRS. The statutory IG will prepare semiannual reports for the Secretary and the Congress. I have provided annual reports to the Secretary which basically consolidated all the internal audit and investigative work for the Secretary, and these reports were also made available to Congress.

I am very proud of our accomplishments to date, and I have provided for the record trends from 1986 through 1988. They are exhibits 3 through 6. I think they are a tribute to the men and women whom we have as internal auditors and investigators in the Department.

The fiscal year 1990 Reagan budget request is for 237 FTE's and $13,605,000. It is a maintenance, base-level budget. It would provide for continuing about the same level of support that we have now, prior to the statutory IG. It would provide the oversight that I mentioned earlier for IRS inspection and the investigative functions at Customs Service, Secret Service, and the Bureau of Alcohol, Tobacco and Firearms. It would allow us to meet our statutory reporting obligations and last, it would allow us to selectively review proposed departmental legislation and regulations.

PREPARED STATEMENT

Mr. Chairman, thank you for this opportunity to introduce the Treasury Office of the Inspector General to you.

[The statement follows:]

STATEMENT OF MICHAEL R. HILL

I am pleased to be here today to present the fiscal year 1990 appropriation request for the Office of the Inspector General of the Treasury Department. Thank you, Mr. Chairman and members of the subcommittee, for inviting me. I am appearing before you for the first time and therefore am submitting my biography for the record. I would also like to introduce Robert P. Cesca, the Deputy Inspector General. My Assistant Inspectors General and other staff members have also accompanied me.

First, I would like to give you a brief history of the Office of the Inspector General at Treasury. Prior to 1978, there was no central audit or investigative organization at Treasury. In 1978, Secretary Blumenthal ordered the establishment of the Office of the Inspector General with oversight responsibilities for bureau investigative programs and investigations of Departmental significance. In 1980, Secretary Miller expanded the responsibilities to include direct auditing of all offices within the Office

of the Secretary and transferred the applicable internal auditors to the Office of the Inspector General. In 1982, Acting Secretary McNamar consolidated the internal auditing and investigative functions of the non-law enforcement bureaus (Comptroller of the Currency, Mint, Bureau of Engraving and Printing, Financial Management Service, Bureau of the Public Debt, and the Savings Bond Division) and the Federal Law Enforcement Training Center under the Office of the Inspector General.

On October 18, 1988, President Reagan signed into law the Inspector General Act Amendments of 1988 (Public Law 100-504) which, among other things, established a statutory Inspector General at the Treasury Department effective April 16, 1989. The law provides for consolidation of the staff and responsibilities for the internal audit functions at the Bureau of Alcohol, Tobacco and Firearms (BATF), United States Customs Service (USCS), and the United States Secret Service (USSS) with the current Office of the Inspector General. This consolidation will approximately double the size of the current Office. Transferring, organizing, and funding this new staff, including eight new field offices, has been a challenge. Since 1984 resources devoted to the Inspector General's Office have only shown modest changes. I am submitting for the record a chart which shows dollars and FTE's assigned to my office for fiscal year 1984 to fiscal year 1988 (See Exhibit 1).

Under the law, the Office of the Inspector General retains oversight responsibility for the Offices of Inspection/Internal Affairs at the Internal Revenue Service (IRS), USCS, BATF, and USSS. I am entering for the record a chart which shows the sources of the 237 FTE's which comprise my Office's fiscal year 1990 request and the location of the 1,544 FTE's not under my direct supervision (See Exhibit 2).

The statutory Inspector General will prepare semi-annual reports on audit and investigative activities of all Treasury bureaus for the Secretary and the Congress. I have issued annual reports to the Secretary which summarized the results of internal audit and investigative efforts throughout the Department. These reports were also made available to Congress. I am very proud of our accomplishments to date. I am providing for the record charts and graphs which summarize our accomplishments for fiscal year's 1986—1988 and a more detailed synopsis of our latest fiscal year 1988 report (See Exhibits 3-6). These results are a tribute to the internal auditors and investigators throughout the Department. The efforts of these dedicated men and women have contributed significantly to making the Treasury Department an efficient and effective organization.

As you are aware, the President's fiscal year 1990 Budget proposes freezing, at fiscal year 1989 levels, the aggregate spending of domestic programs not directly associated with one of his five broad initiatives. Although our program is included in this category, the President has emphasized that the freeze is flexible, allowing some programs to increase while others are reduced.

We expect that final decisions about whether to increase or decrease specific programs within this freeze category will be determined through top level deliberations and negotiations between the Administration and Congress.

It should be emphasized that the President has not proposed that funds be appropriated for these particular adjustments. Therefore, our discussion must be viewed as providing the Committee with information on "candidate" areas which could be increased or decreased within the context of the overall freeze.

The fiscal year 1990 Reagan Budget request for the Office of Inspector General, Treasury Department, is for 237 FTE's and $13,605,000. The request is a maintenance, base-level budget which will allow us to:

1. Continue about the same level of audit and investigative coverage of the Department as existed prior to the implementation of a statutory Inspector General;
2. Provide oversight to IRS Inspection and the internal investigative components of the USCS, BATF, and USSS;
3. Meet our statutory reporting obligations; and
4. Selectively review Departmental legislation and regulations.

Within our overall request, we have included $1,989,000 for ADP funding. The Office of Inspector General must have available sufficient computing capabilities to successfully perform mission requirements and to manage and control day-to-day operations. Our existing ADP systems capability cannot accommodate the needs of our additional staff. I am submitting for the record a chart showing in detail how we plan to spend our fiscal year 1990 ADP funds (See Exhibit 7).

Mr. Chairman, thank you for this opportunity to introduce the Treasury Office of Inspector General to you and your colleagues. I will be happy to answer your questions at this time.

BIOGRAPHICAL SKETCHES

MICHAEL R. HILL

Former Secretary of the Treasury James A. Baker, III, appointed Michael R. Hill as Inspector General of the Department of the Treasury on April 6, 1986. Mr. Hill had been Deputy Inspector General since March 1985.

As Inspector General, Mr. Hill provides overall leadership and coordination of the internal audit and investigative functions for the Department. He also recommends policies for activities designed to promote economy, efficiency, and effectiveness in the administration of Treasury programs and operations. Mr. Hill is also responsible for ensuring a comprehensive program that will maintain integrity and prevent and detect fraud, waste, and mismanagement within the Department.

Before coming to Treasury, Mr. Hill held several managerial positions from 1981 to 1985 at the National Aeronautics and Space Administration (NASA). These included Assistant Inspector General for Auditing, Acting Assistant Inspector General for Management Services, and Deputy Director of Headquarters and special Projects.

From 1975 to 1981, Mr. Hill was an Accountant, Supervisory Auditor and Chief of the Cost Advisory Branch at U.S. Environmental Protection Agency office of Cincinnati. He served as Internal Auditor at the Navy Finance Center in Cleveland, Ohio, from 1973 to 1975.

Mr. Hill earned a Bachelors of Business Administration from Minot State College (1973), a Masters of Business Administration from Xavier University (1981), and is a Certified Public Accountant (CPA). He is a member of the President's Council on Integrity and Efficiency (Chairman, Communications Subcommittee); American Institute and Ohio Society of Certified Public Accountants; Association of Government Accountants (National Chairman, Audit Committee, 1985–1986 and 1986–1987), (National Finance and Budget Board Member, 1984–1985 and 1985–1986); Association of Federal Investigators; and Veterans of Foreign Wars. He is married and has a son. Mr. Hill was born in Cincinnati, Ohio, on June 5, 1948.

ROBERT P. CESCA

Robert P. Cesca became the Deputy Inspector General within the Office of the Inspector General of the Treasury Department in August 1986. In this capacity, he is responsible for assisting the Inspector General in providing overall leadership and coordination of the internal audit and internal investigative functions for the Department. He also assists in recommending policies for activities designed to promote economy, efficiency, and effectiveness in the administration of Treasury programs and operations. He also assists in ensuring a comprehensive program that will maintain integrity and prevent and detect fraud, waste, and mismanagement within the Department.

Prior to becoming the Deputy Inspector General, Mr. Cesca was the Assistant Inspector General (Audit) for Fiscal Services and ADP Support. He was promoted to that position in February 1984.

Prior to joining the Office of the Inspector General, Mr. Cesca was employed as an internal auditor and internal audit manager in the Internal Revenue Service. There Mr. Cesca was involved in audits of various IRS systems and operations. In addition, he served in a staff capacity to the Director of Internal Audit and was responsible for developing and administering division training programs; and coordinating the development of division technical and administrative guidelines.

Mr. Cesca has been the recipient of a number of awards during his 25 year career, highlighted by receiving the Presidential Rank Award of Meritorious Executive in 1987.

Mr. Cesca earned a Bachelors of Business Administration in Accounting from St. Bonaventure University. He is both a Certified Public Accountant and Certified Internal Auditor and is a member of the American Institute of Certified Public Accountants. He is married and has three sons. Mr. Cesca was born in New York, New York on November 3, 1938.

JAY M. WEINSTEIN

Jay M. Weinstein was selected to the position he now holds, Assistant Inspector General for Audit (DOTOCC), by the current Inspector General, Michael R. Hill, in September 1986. As the Assistant Inspector General for Audit (DOTOCC), Mr. Wein-

stein supervises the audit staffs at the Departmental Offices, Bureau of Engraving and Printing, U.S. Mint, and the Office of the Comptroller of the Currency, which provide internal audit services to those four Treasury bureaus.

Mr. Weinstein has been designated as the Assistant Inspector General for Audit on the effective date of the statutory Inspector General at the Department of the Treasury. As such, he will be responsible for providing leadership to and coordination of the internal audit function of the Office.

From May 1983 to September 1986, Mr. Weinstein was the Assistant Inspector General for Audit for the Office of the Comptroller of the Currency, where he directed and evaluated audit activities as well as the quality assurance program beginning in June 1985. Prior to 1983, Mr. Weinstein accumulated varied audit experience in public accounting and in Government with the Department of the Treasury.

Mr. Weinstein earned a Bachelors of Business Administration from American University (1969) and is a Certified Public Accountant. He is a member of the American Institute of Certified Public Accountants and has in the past been a member of several committees of the District of Columbia Institute of Certified Public Accountants. In 1985 and 1986, he represented the United States on the External Audit Committee of the International Monetary Fund. He and his wife and two sons reside in Burke, Virginia. Mr. Weinstein was born in New York City on July 22, 1947.

GARY L. WHITTINGTON

Gary L. Whittington is the Assistant Inspector General, Audit (Fiscal Service/ADP) with responsibility for providing leadership and management of the audit activities of Treasury's Bureau of the Public Debt and Financial Management Services. Mr. Whittington also oversees the Office of Inspector General's ADP operations which supports audit and investigative activities as well as day-to-day management information needs.

Mr. Whittington has been designated as the Assistant Inspector General for Management and Technical Services on the effective date of the statutory Office of Inspector General. In this new position, he will be responsible for planning, policy, personnel, budgeting, and other management services. In addition, he will ensure a program of quality assurance for audit and investigations and continue his leadership of our enhanced ADP operation.

Previously, Mr. Whittington was the Assistant Inspector General, Audit with the responsibility for the Treasurer's Office and Departmental Offices audit activities from 1982 to 1986. From 1980 to 1982, Mr. Whittington was the Chief, Audit and Internal Affairs, Bureau of Engraving and Printing. He also served as Audit Manager of the Bureau of Government Financial Operations (now Treasury's Financial Management Service) from 1976 to 1980. He entered Government service in 1964 with the General Accounting Office as an auditor and supervisor until joining Treasury in 1976.

Mr. Whittington earned a Bachelors of Science in Business Administration from Morris Harvey College in Charleston, West Virginia in 1964. He is a Certified Public Accountant and a member of the American Institute of Certified Public Accountants and the Association of Government Accountants. Mr. Whittington is married and has one son. He was born in Charleston, West Virginia on July 13, 1941.

CHARLES D. FOWLER, III

Mr. Fowler was appointed Assistant Inspector General for Investigations in September 1988. Prior to his appointment, Mr. Fowler served in several management positions in the Office of Investigations: Deputy Assistant Inspector General for Investigations; Director, Quality Assurance Review, and Director of Investigations. Mr. Fowler came to the Treasury Department, Office of Inspector General in May 1985.

As Assistant Inspector General for Investigations, Mr. Fowler is responsible for the investigation of all allegations/actual violations of fraud, waste abuse, mismanagement and integrity violations and cases involving notoriety or Departmental significance, as well as allegations/actual violations of Title 18, United States Code and Treasury's Minimum Standards of Conduct within Treasury's non-law enforcement bureaus. He is also responsible for the investigation of all allegations/actual violations involving senior officials (GS–15 and above) within the Department's four enforcement bureaus' internal affairs and inspection units (ATF, IRS, USSS and USCS).

Prior to coming to the Treasury Department, Mr. Fowler served in investigative and supervisory capacities at NASA's Office of Inspector General, Goddard Space Flight Center 1983–1985; the Department of Commerce's Office of Export Enforcement, International Trade Administration, 1978–1983; and as a Special Agent, United States Secret Service, 1975–1978.

Mr. Fowler also taught instrumental music in Prince George's County, Maryland (1970–1975) and served as a uniformed member of the Nation's Capital Metropolitan Police Department.

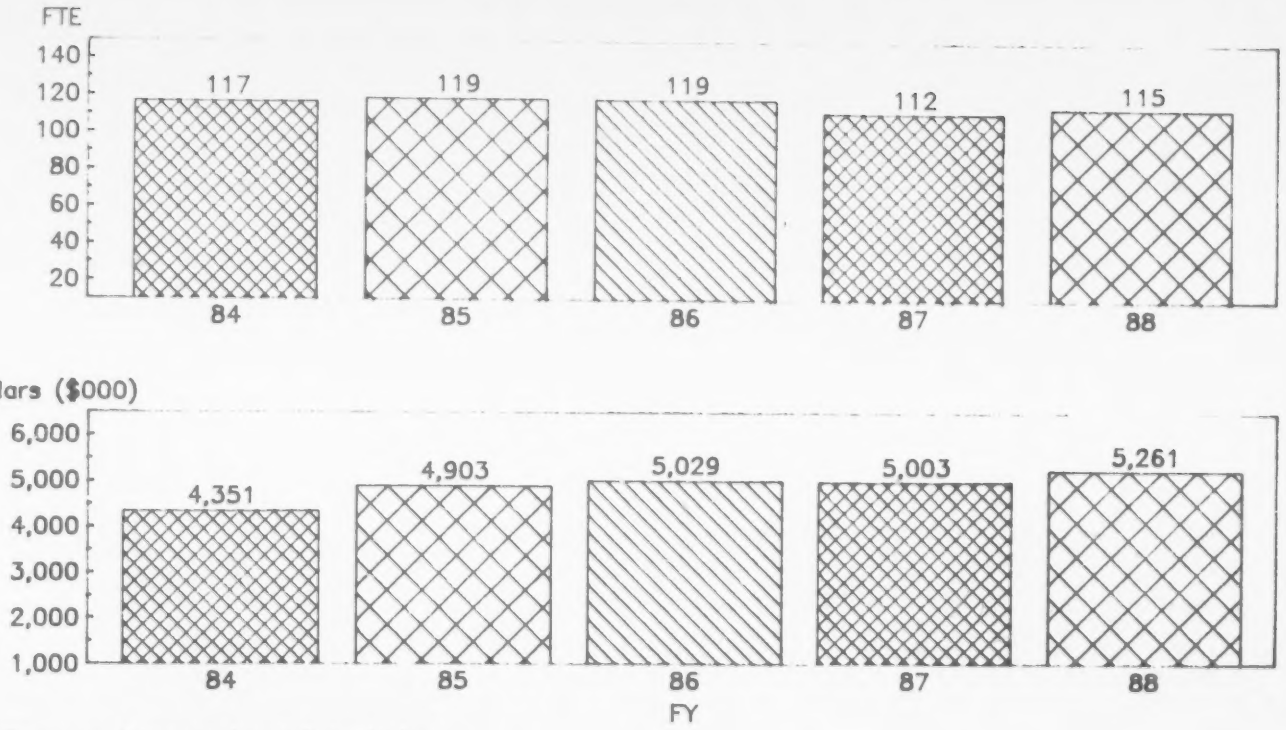
Mr. Fowler is a 1969 graduate of Howard University's College of Fine Arts—Bachelor of Music Education.

He is an active member of the National Organization of Black Law Enforcement Executives (NOBLE), having served as Washington Metro Chapter Vice President in 1987 and 1988 and Region II Secretary, Philadelphia, Baltimore and Washington, during 1987. He is past Treasurer and present national Vice President of the National Association of Federal Investigators.

Mr. Fowler was born in August 1946, is married and has two children.

Exhibit 1

Department of the Treasury
History of Treasury IG Resources



Source: Treasury Congressional Submissions

Exhibit 2

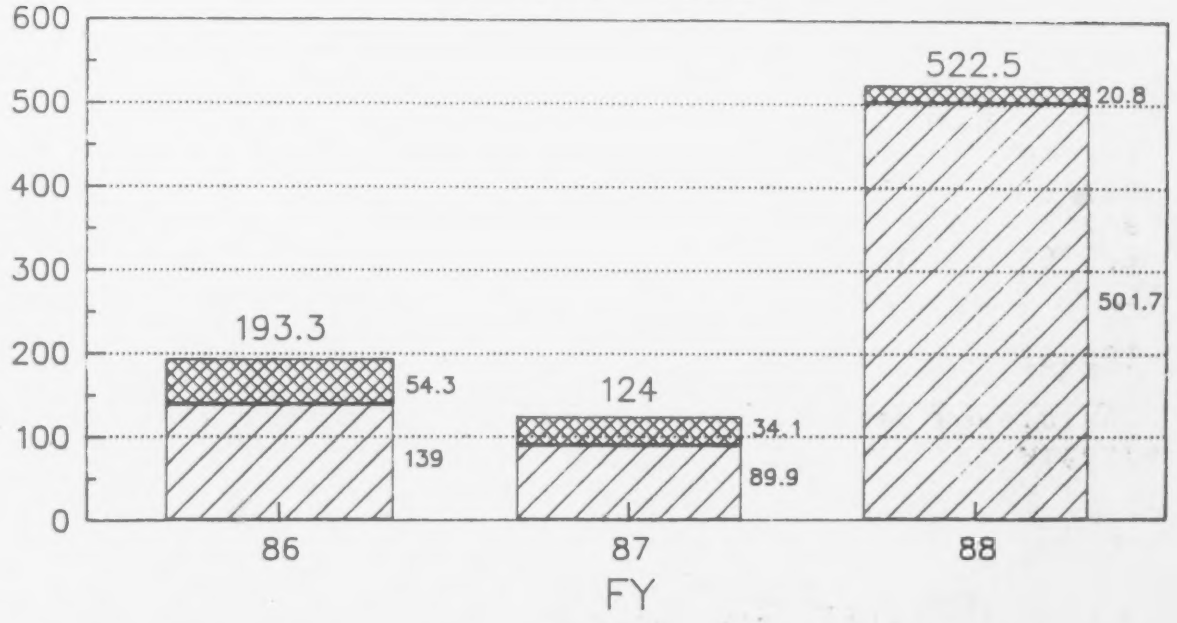
RESOURCES TRANSFERRED TO TREASURY INSPECTOR GENERAL CONTROL AND RESOURCES REMAINING UNDER INDIVIDUAL BUREAU CONTROL

Bureau	FY90 Internal Affairs Resources Transferred		FY90 Internal Affairs Resources Remaining	
	FTE	($000s)	FTE	($000s)
Customs	91	5,642	203	19,567
Secret Service	3	156	29	2,496
ATF	19	905	34	2,488
IRS	5	308	1,278	61,369
Dept. Offices	117	6,134	--- none	---
Fin. Mgmt. Serv.	0	200	--- none	---
Public Debt	2	223	--- none	---
Mint	0	36	--- none	---
Total	237	$13,605 *		

* Figures do not add due to rounding.

Exhibit 3

Department of the Treasury
Dollar Accomplishments (In $millions)*
FY 1986–1988

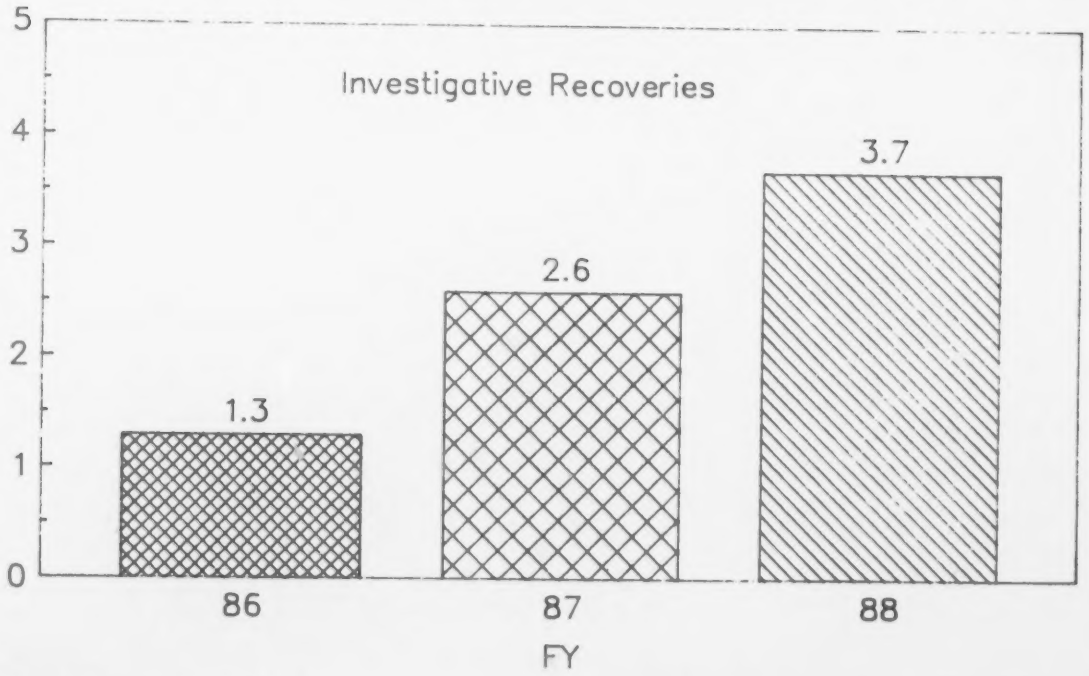


Source: Office of Inspector General, Annual Reports

*Includes the internal audit activities of the entire Department

Exhibit 4

Department of the Treasury
Dollar Accomplishments (In $millions)*
FY 1986–1988

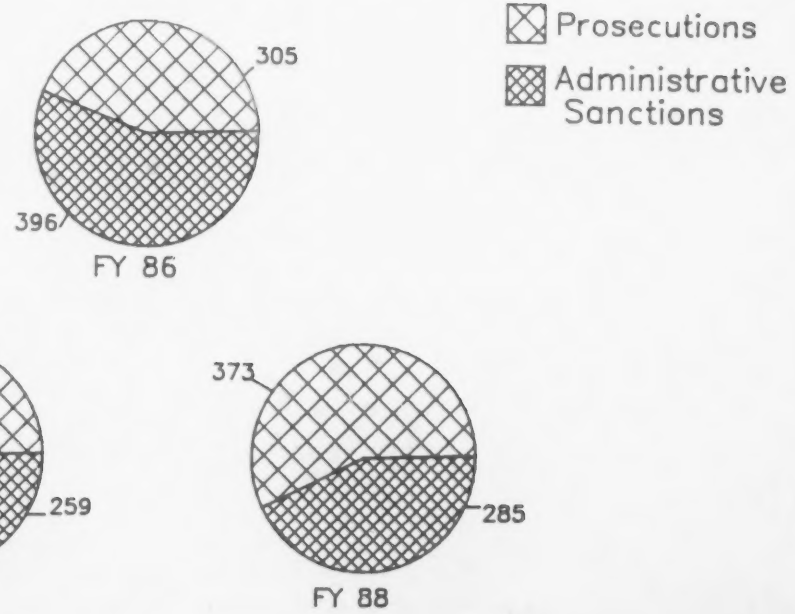


Source: Office of Inspector General, Annual Reports

* Includes the internal security investigations of the entire Department

Exhibit 5

Department of the Treasury Judicial/Administrative Actions* FY 1986–1988



Source: Office of Inspector General, Annual Reports

* Includes the internal security investigations of the entire Department

Exhibit 6

The Annual Report (FY 1988) of the Inspector General covers Key accomplishments of Treasury's internal auditors and investigators. The monetary results included:

- $501.7 million in recoveries and restitutions; $3.7 million in investigative recoveries; and $20.8 million in savings and avoidance of unnecessary expenditures.

The year's highlights include:

- A former Customs Inspector was fined $1.75 million and sentenced to 17 years incarceration for bribery, drug possession and money laundering offenses.

- IRS Internal Audit estimates lost revenue of over $125 million for 1986 individual income tax returns because taxpayers have claimed erroneous deductions. IRS Management agreed to take corrective action.

- The OIG identified $4.2 million in delinquent check reclamation receivables at the Financial Management Service. Management has developed a conceptual design for an automated system which will help speed fund recovery.

- One former Bureau of Alcohol, Tobacco and Firearms employee must repay $125,000 in fraudulently received compensation payments. Since he will receive no further payments, the government will realize an estimated $1 million cost avoidance.

- A priest was sentenced for his involvement in a bribery scheme to avoid paying more than $2 million in legally owed Federal and state income taxes for himself and 30 others.

- Bureau of Alcohol, Tobacco and Firearms auditors identified $9 million in uncollected distilled spirits floor stocks taxes. The bureau will recover the taxes where feasible.

- The Financial Management Service can realize a $246,000 one-time cost avoidance by postponing future check stock deliveries until current levels are reduced to a four-month supply. The Bureau's management has agreed to this action.

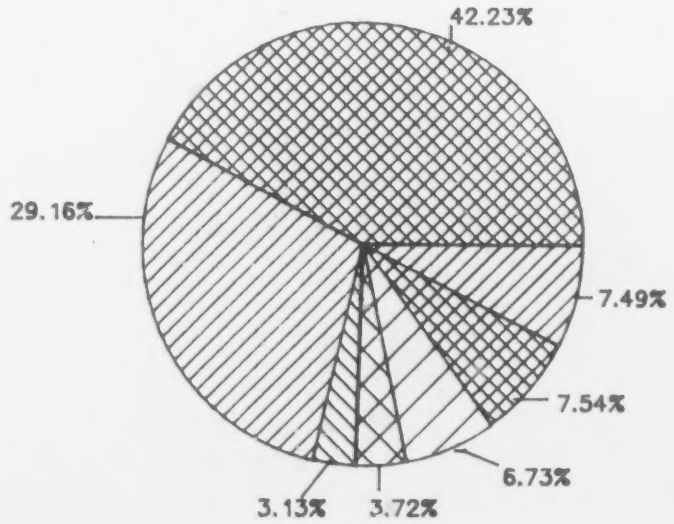
- The Financial Management Service can realize a $1 million cost avoidance over the next five years by recovering available computer storage space. Management has developed a strategy to improve its computer system storage.

- The Office of the Inspector General questioned approximately $3.1 million in costs on a proposed $46 million contract for Bureau of Engraving and Printing's currency paper. The bureau's contracting officer sustained $900,000 in negotiations.

- Treasury could save an estimated $1.1 million annually if investors' funds for Treasury securities are deposited by the Bureau of the Public Debt and the Federal Reserve Banks within the required time period. Management has acted to improve timely deposit of these funds.

Exhibit 7

Department of the Treasury
Allocation of OIG Computing Dollars



Lease for Data Center	$840,000
Workstations	$580,000
Training Dollars	$62,200
Systems Security	$74,000
Telecommunications	$133,800
Maintenance (HW/SW)	$150,000
Other ADP Costs	$149,000
	$1,989,000

1990 RESOURCE NEGOTIATIONS WITH CUSTOMS

Senator DECONCINI. Fine, thank you very much, Mr. Hill.

Did you make the decisions as to how many FTE's and dollars should be transferred from the other bureaus in support of your office, or was that decision made by the Secretary? How did that happen?

Mr. HILL. Basically it was negotiated, sir.

Senator DECONCINI. Negotiated with whom?

Mr. HILL. With the law enforcement bureaus.

Senator DECONCINI. With the bureaus?

Mr. HILL. Yes, sir.

Senator DECONCINI. Can you tell me how this was negotiated? Specifically, why did Customs happen to negotiate taking such a large hit? That doesn't sound like Customs. Why was the Customs Service required to transfer 91 positions when only 77 of those positions had been devoted to internal audit activities? They are pretty good negotiators.

Mr. HILL. I appreciate that, Mr. Chairman. Essentially, in the U.S. Customs Service, from fiscal years 1987 through 1989, there have been dramatic increases in staffing and in funding and also, I might add, in Internal Affairs itself. At the same time, the internal audit function was showing rather minor decreases, and what I felt was fair was 91 FTE's and $5.6 million. At the time when Customs was increasing rather dramatically in funding and staff and Internal Affairs was increasing dramatically in funding and staff, the internal audit function was actually showing slight declines. I thought to even that out, 91 was a fair number.

Senator DECONCINI. And the Commissioner agreed to that?

Mr. HILL. The Assistant Secretary for Enforcement actually agreed to that, Assistant Secretary Martoche.

Senator DECONCINI. Secretary Martoche, he agreed, he made that decision for Customs?

Mr. HILL. Yes, sir.

BUDGET SUBMISSION AND IG INDEPENDENCE

Senator DECONCINI. Your budget comes within the Treasury Department budget. Is that how most IG budgets are submitted, or are they submitted independently? I should know the answer to that. I am just looking for information.

Mr. HILL. Yes, sir; I think that's the way all OIG budgets are submitted.

Senator DECONCINI. What troubles me is the appearance when it is done that way. Maybe it has to be done that way. It just seems to me that it appears that you are not really independent if your budget is prepared and submitted as part of the Departmental Offices, but I'll look into that myself to see whether or not that is the correct procedure, that all other departments follow. It seems to me it puts you in a position that makes you look like you are not independent. You consider yourself independent, do you not?

Mr. HILL. Yes, sir, I do. I know of no Office of Inspector General that submits their budget directly to OMB.

Senator DECONCINI. Well, I have no other questions that I cannot submit to you. I am pleased with the way in which this has been

handled. I think the committee is very satisfied that you moved expeditiously, and you are really not talking about any new moneys, as I see it, to implement the Inspector General Act amendments. It is all transfer of authority or transfer of funds from other bureaus.

Mr. HILL. That's correct, sir.

SUBMITTED QUESTIONS

Senator DECONCINI. I have no other questions. I will submit the balance for the record. Thank you, gentlemen, for being here.

Mr. HILL. Thank you, sir.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTION SUBMITTED BY SENATOR DECONCINI

Senator DeConcini: Can you tell me something about the organization of your office--How many positions are in Washington versus the field and how are policy areas broken down between Washington and the field?

Mr. Hill: Currently we have 116 full-time permanent (FTP) employees on the rolls, 102 in Washington and the remaining 14 in the field. The 14 field employees are assigned as follows: 1 at the Federal Law Enforcement Training Center in Glynco, Ga.; 4 at the Mint in Philadelphia; 2 at the Mint in Denver; 2 at the Mint in San Francisco; and 5 at the Bureau of Public Debt in Parkersburg, WV.

Upon consolidation into the new Statutory Inspector General organization, the number of employees located in the field will jump dramatically because of the transfer of Customs internal audit field offices. As of Janaury 24, 1989, Customs had 67 FTP employees in eight field locations: 10 in Boston, MA; 7 in Chicago, IL; 11 in Houston, TX; 5 in Indianapolis, IN; 10 in Los Angeles, CA; 7 in Miami, FL; 8 in New Orleans, LA; and 9 in New York, NY and an additional 13 FTP employees in Washington, D.C. for a total of 80 FTP. We will also be gaining 15 FTP employees located in Washington, D.C. from the Bureau of Alcohol, Tobacco and Firearms and 3 positions from the U.S. Secret Service, also located in Washington, D.C.

Our new organizational structure provides for a Deputy Assistant Inspector General (Audit) for Field Operations under whom field internal audit operations will be consolidated. I also plan to employ five criminal investigators in the field who will report directly to the Office of the Assistant Inspector General for Investigation.

Please refer to our new organization chart which we have submitted for the record.

Senator DeConcini: With the creation of a statutory Inspector General within the Department of the Treasury what steps should be taken to insure the independence of the Inspector General from Treasury within the parameters of the law?

Mr. Hill: The law provides for organizational independence by requiring the Inspector General to report to the highest level of management within Treasury which means the Secretary or Deputy Secretary. The law further provides for operational independence by giving the Inspector General his own budget authority and also control over the selection of personnel. Any impediments to the conduct of Inspector General responsibility can be brought to the attention of the Congress via a 7 day letter. Within Treasury, I intend to implement each of these provisions to ensure Inspector General independence.

Senator DeConcini: Do you believe your investigators will need full law enforcement authority, including the authority to make arrests, and do you support legislation which would give them this authority?

Mr. Hill: I personally endorse law enforcement authority for Treasury Office of Inspector General investigators, which is reflective of the positon taken by the President's Council on Integrity and Efficiency. I am very proud of the Treasury Office of Inspector General investigators and can tell you they are truly law enforcement professionals.

I also endorse testimonial subpoena authority for Inspector General investigators because I believe this can be a very useful investigative tool.

Senator DeConcini: What role can the Treasury Office of the Inspector General play in policing the application of new technologies to automate various functions within the Department?

Mr. Hill: The Treasury Office of Inspector General should play a major role by ensuring proper internal controls are built into any new system being developed. We have begun playing a proactive rather than reactive role by becoming involved from the early stages of development and evaluating systems through all stages of the system development life cycle.

Senator DeConcini: How many people do you have on your staff that have an expertise in information systems management and development?

Mr. Hill: At present, we have an ADP support staff of six people who are all classified as Computer Specialists. This staff provides both in-house computer support and specialized assistance to audits and investigations. We also have internal auditors with expertise in ADP: 2 in Parkersburg and 3 in Washington, D.C. In addition, once we consolidate on April 16, we will be gaining 4 Customs Computer Specialist positions.

QUESTIONS SUBMITTED BY SENATOR DOMENICI

Senator Domenici: The Inspector General Act amendments of 1988 require the Department of the Treasury to establish an independent statutory Inspector General and to consolidate audit functions on April 16, 1989. How is the Department working to comply with this statutory requirement? Will the new office be set up and operational by April 16?

Mr Hill: A Departmental task force was convened to initially assess the impact of the amendments upon the

Department. The OIG also formed an internal task force to assess impacts upon our own organization. Subsequently, we formed a Steering Committee with multiple working groups to accomplish required administrative, policy and program changes.

We expect to be fully operational on April 16. To that end, we have already accomplished the following:

- A proposed Treasury Order has been drafted for the Secretary which sets forth the authorities and responsibilities of the statutory Inspector General within the Department.

- The organizational structure has been developed and we are in the process of identifying necessary personnel moves to accommodate the structure.

- Arrangements have been made to transfer to the OIG employees from Customs, Secret Service and ATF internal audit staffs.

- We have set up ongoing communications with the law enforcement bureaus to ensure that transition issues are resolved quickly and smoothly.

- We are examining our audit plans for the remainder of FY 1989 to identify how our new staff and mission should best be utilized.

- We will soon begin our FY 1990 audit planning which will include our new law enforcement bureau auditors as full partners in the process.

- We have closely examined our ADP requirements to determine both our needs for auditing the Department advanced ADP systems and our own internal information needs.

- We are looking at our policies and procedures and external and internal reporting requirements to determine what changes are needed.

- We are addressing our statutory requirements for legislative and regulatory review, semiannual reporting and oversight within our new organizational structure and proactively identifying ways to efficiently accumulate the necessary information.

- We have developed, negotiated and produced a 1990 budget and have negotiated a 1989 budget for the period 4/16/89 to 9/30/89.

- Finally, we are examining our administrative requirements in light of the need for IG independence and the intent of the statute.

Senator Domenici: How will the new Treasury Inspector General's office get the resources it will require to operate from April 16 through the balance of Fiscal Year 1989?

Mr. Hill: We have concluded negotiations with ATF, Secret Service, Customs and the Departmental Offices and agreed on amounts to ensure that we will have sufficient dollars and FTE to support existing and transferred staff and programs from April 16 to the end of FY 1989. We are documenting the amounts in Memorandums of Understanding, constructing a financial plan and will execute it independently for the balance of the Fiscal Year.

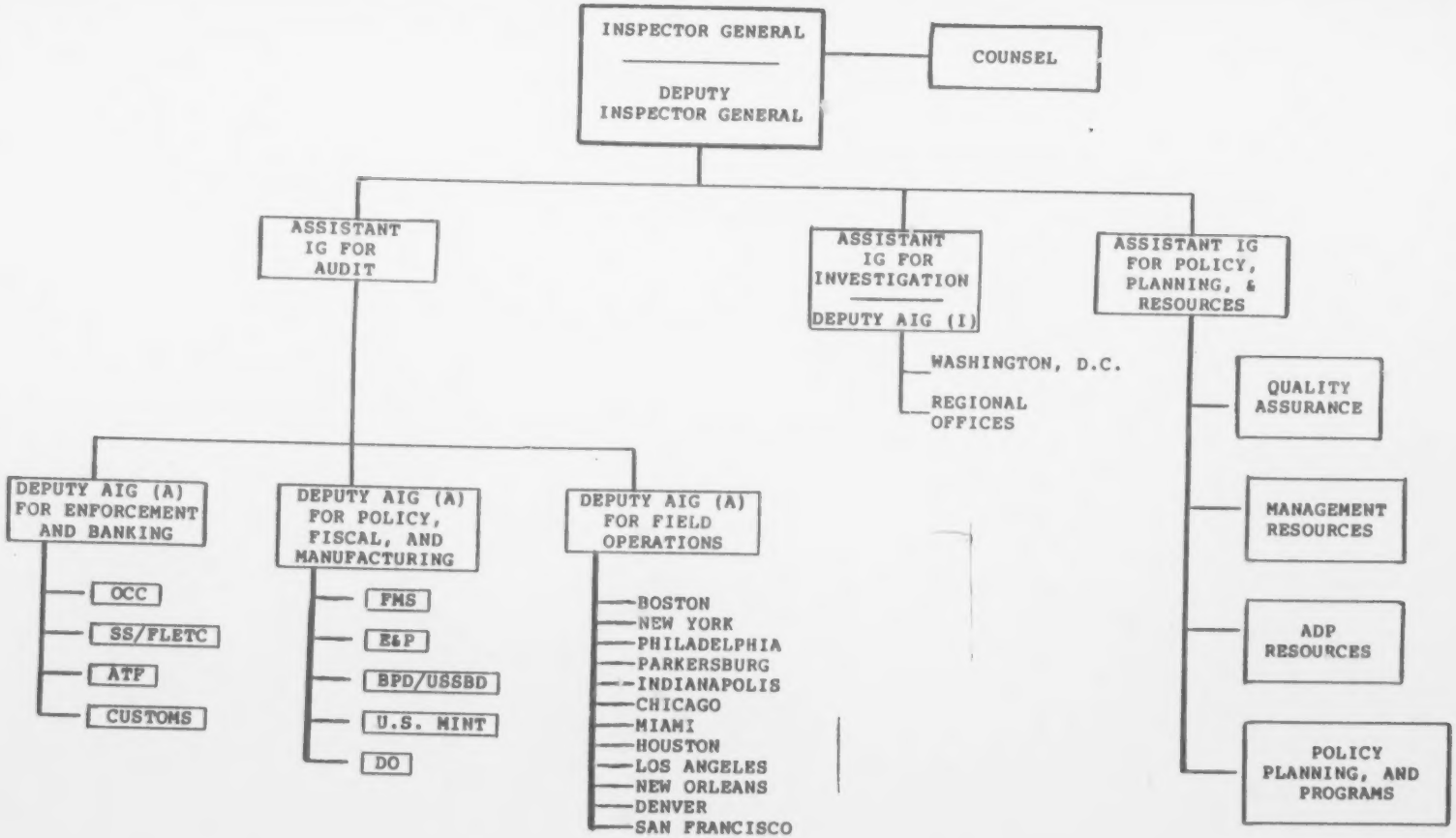
Senator Domenici: The budget indicates that 237 FTE positions and $13,605,000 will be transferred from other Treasury bureaus and offices to provide resources for the new IG's office in Fiscal Year 1990. Are the individuals currently employed in these positions also being transferred to the new IG's office? Will the new Treasury Inspector General's office receive support from any other Treasury appropriations accounts in Fiscal Year 1990?

Mr. Hill: All personnel employed as of April 16 in the positions at ATF, Customs and Secret Service covered by the Inspector General Act amendments will be transferred to the statutory IG.

We will not be receiving any direct funding from any other Treasury appropriations accounts in FY 1990. There are some common services provided to building occupants such as heat, light, electricity, supply store sundries, etc. by the Departmental Offices and other bureaus where our personnel are stationed of which we most likely will continue to avail ourselves. We expect that the Departmental Offices will continue to provide us with accounting, procurement, payroll and other miscellaneous services because we have not been funded to cover these requirements and economies of scale would cause them to be prohibitively expensive given the small size of the OIG. In addition, we will be receiving a total of 5 FTE's and $847,000 from reimbursable agreements with the Bureau of Engraving and Printing, Comptroller of the Currency, Bureau of the Mint and the Federal Law Enforcement Training Center.

Senator Domenici: What is the organizational structure of the new Inspector General's office?

Mr. Hill: We are submitting our new organization chart for inclusion in the record.


INSPECTOR GENERAL
DEPUTY INSPECTOR GENERAL
COUNSEL
ASSISTANT IG FOR AUDIT
ASSISTANT IG FOR INVESTIGATION
DEPUTY AIG (I)
WASHINGTON, D.C.
REGIONAL OFFICES
ASSISTANT IG FOR POLICY, PLANNING, & RESOURCES
QUALITY ASSURANCE
MANAGEMENT RESOURCES
ADP RESOURCES
POLICY PLANNING, AND PROGRAMS
DEPUTY AIG (A) FOR ENFORCEMENT AND BANKING
OCC
SS/FLETC
ATF
CUSTOMS
DEPUTY AIG (A) FOR POLICY, FISCAL, AND MANUFACTURING
FMS
E&P
BPD/USSBD
U.S. MINT
DO
DEPUTY AIG (A) FOR FIELD OPERATIONS
BOSTON
NEW YORK
PHILADELPHIA
PARKERSBURG
INDIANAPOLIS
CHICAGO
MIAMI
HOUSTON
LOS ANGELES
NEW ORLEANS
DENVER
SAN FRANCISCO

FINANCIAL MANAGEMENT SERVICE

STATEMENT OF WILLIAM E. DOUGLAS, COMMISSIONER, FINANCIAL MANAGEMENT SERVICE

ACCOMPANIED BY:

GERALD MURPHY, FISCAL ASSISTANT SECRETARY

DAVID M. NUMMY, ACTING ASSISTANT SECRETARY OF THE TREASURY FOR MANAGEMENT

INTRODUCTION OF WITNESSES

Senator DECONCINI. Gentlemen, thank you for being with us. Our next guests represent the Financial Management Service. You have a very busy agency, gentlemen, and we believe that you are doing your jobs very well. This morning Mr. Gerald Murphy, Fiscal Assistant Secretary, and Mr. William Douglas will be testifying. Your full statements will be inserted in the record, Mr. Douglas, and you can summarize them for me, please.

Mr. DOUGLAS. Mr. Chairman, I am pleased to be here today to present the fiscal year 1990 resource requirements of the Financial Management Service, and I will present my longer statement for the record.

Mr. Chairman, I have had the opportunity to lead the Financial Management Service as a career member of the Senior Executive Service throughout the decade of the 1980's. Since the time that you came to this subcommittee and I became the Commissioner of FMS, we have seen our Government, both the executive and legislative branches, seriously seek that level of quality public service referred to as "good government." Providing a greater benefit, offering better service, requiring a lesser burden—these goals have been the focus of our efforts and our actions.

Our efforts, both yours and mine, have resulted in some pretty dramatic changes in the way the Federal Government manages its financial resources. The decade of the eighties has been the most successful period of financial management I have seen in my 30 years of Federal service. Whether we speak about the wholesale expansion of electronic payments and collections, increased cash management earnings, the development of a more effective debt collection program, or improvements in the quality and timeliness of financial information, these years have seen a tremendous amount of progress, but more can and will be done. The word "complacency," Mr. Chairman, is not in the vocabulary of the Financial Management Service.

To reach the goals that we have set for ourselves, we found it necessary to improve our own operations, systems, and products, before venturing out to provide leadership to other agencies. I am proud that the Office of the President has recognized the Financial Management Service in its "Management of the United States"

budget report. Throughout the text of this report, the efforts and the results of the Financial Management Service are referenced.

Mr. Chairman, the early 1980's was a time of manual and costly payment systems; loose and limited cash management practices; unorganized credit management activities; ineffective debt collection efforts; and financial systems that provided policymakers with information that was both too little and too late. I am happy to report to you that era has ended.

Today, up-to-date cash management practices save the American taxpayer hundreds of millions of dollars each year. Debt collection is more businesslike and yields far greater returns. Under FMS's leadership, financial management has been improved so that agencies can provide the President and the Congress with better quality financial information about the Government's finances.

Although FMS has made important improvements in our electronic and check payment systems, a badly needed system replacement effort is still underway. We will be asking the committee for money to complete our check payment system replacement.

JOURNEY TOWARD FINANCIAL MANAGEMENT SUCCESS

For the committee's review, we have prepared a booklet that maps for you some of the key features of the Financial Management Service's journey during the 1980's. Let me show you just a few highlights of this booklet.

On page 12, the chart shows that throughout the decade of the 1980's, our budget at FMS has remained constant in 1980 dollars. In other words, adjusted for inflation, our budget has not gone up throughout the decade of the 1980's. It has been relatively flat.

On the next page, page 13, we find that during the same period our employment levels have been reduced by 24 percent. Despite this reduction in resources, and the fact that we have a flat budget in constant 1980 dollars, we have still been able to achieve dramatic results.

Senator DECONCINI. How do you account for that? Mostly automation, or——

Mr. DOUGLAS. It is a combination of several things, Mr. Chairman. Foremost, we are very good managers. Second, we have spent money, that this committee provided, to automate systems, update old systems, provide computer support for activities, and to look for methods of achieving efficiencies and improvements throughout our operations.

On page 16 the bar graph shows that our cash and credit management earnings for fiscal year 1988 were approximately $1.7 billion.

Senator DECONCINI. What do you mean by earnings, Mr. Douglas? Does that mean what you take in or what is attributed to your——

Mr. DOUGLAS. By collecting money faster through our collection mechanisms, the Federal Government earns interest on it.

Senator DECONCINI. That interest is in addition to that money?

Mr. DOUGLAS. Yes, sir; there are savings and interest earnings.

Senator DECONCINI. How do you get savings? Do you get credited savings with the money in the Treasury, or what?

Mr. DOUGLAS. If we get our collections earlier, time our payments correctly, and Treasury does not have to go into the market to borrow, then there is a savings on the interest cost.

Senator DECONCINI. I see. Just so I understand it, if the Treasury is going to sell a group of notes and they are projecting to sell $10 billion worth, and if you have collected $1 billion and they have to reduce that to $9 billion, then you take the credit for that and the interest that is saved on them from not having to sell the full $10 billion.

Mr. DOUGLAS. Whatever the cost of that extra $1 billion. In addition, when we collect money earlier, our investment program works through the Federal Reserve and 14,000 banks to earn interest on moneys left with the banks. The banks pay us, so we are earning interest from that side.

Senator DECONCINI. Thank you for the explanation.

Mr. DOUGLAS. That $1.7 billion in fiscal year 1988 is six times greater than our fiscal year 1988 appropriation.

Senator DECONCINI. How much of that is interest?

Mr. DOUGLAS. Approximately $900 million is in interest earnings and approximately $800 million in savings.

Senator DECONCINI. And this is done primarily by the expediting of collections?

Mr. DOUGLAS. Yes; and also by assuring that payments are made in a timely manner. We provide a variety of collection and electronic payment mechanisms for agencies to use. In fact, we have some in this budget. We have requested $600,000 to help us proceed with IRS to modernize the Federal tax deposit [FTD] system. The FTD system modernization will earn approximately $300 million a year from earlier availability of funds, as well as provide operational savings for IRS and reduce the cost associated with FTD payments for us.

I think that a 600-percent return on investment, Mr. Chairman, is pretty impressive. If we were thinking about a leveraged buy-out for the Financial Management Service, Wall Street would probably be very, very interested.

Senator DECONCINI. If we double your budget, can you collect that, can you have that much greater return?

Mr. DOUGLAS. I do not think we could gain doubled savings from a doubled budget, sir, but we could provide greater savings on incremental increases. There is no question about it.

Senator DECONCINI. Have you ever done any studies or projections of where you reach the maximum rate of return? Let me ask you this, so I am not trapping you here. We have had the Commissioner of IRS come here a number of times and lay out these charts where they say, "If you will give us an extra $230 million, in 12 months we can raise $1.2 or $1.1 billion or something like that." But when it comes down to it, it doesn't work out that way. They do raise more through tax compliance, but it doesn't work out often as initially represented because OMB disagrees with those collections, as does sometimes the Congressional Budget Office.

Mr. DOUGLAS. Well, just look back to 1985. We have some data going back to the early eighties that shows we have consistently underestimated earnings and savings throughout the eighties by a

factor of about 15 percent. We tend to be conservative when we project either earnings or savings.

Senator DECONCINI. Then my question is, what if your budget was increased 10 percent? What would that bring about in savings, or do you have any idea?

Mr. DOUGLAS. I will certainly give you a response that will outline that for the record. I know where I would spend a great deal of it immediately—in our System 90 effort.

[The information follows:]

PROFITS FROM ADDITIONAL FUNDING

Question. What if you were given funding in addition to your FY 1990 request -- how much of a profit could the Financial Management Service (FMS) make?

Answer. The Financial Management Service could effectively utilize an additional investment of up to $14,530,000 and 5 FTE positions in FY 1990. An investment of this magnitude, applied to identified program proposals, would yield a return on investment of roughly $4.5 million in interest earnings during FY 1990, at least $19.3 million in interest earnings and Service savings in FY 1991, grow to approximately $24.6 million by FY 1992, and expand to nearly $49 million in FY 1993. In addition, funding at this level would significantly reduce risks to which the Government is exposed. These new profits would be obtained by investing in four programs in FY 1990.

System 90

-- $10.2 million -- funding at this level would enable FMS to accelerate, by nearly one year, the implementation of the system that will replace the Government's antiquated payments and claims processes. System 90 will significantly reduce the risks to which the Government's assets are exposed, and ensure that payments to Social Security and other benefit recipients would not be delayed. By securing contract services for the design and development of software earlier, we would eliminate the risk of schedule slippage and avoid excessive costs.

The acceleration of the implementation schedule would allow projected savings of approximately $28.5 million annually to begin during FY 1993 as opposed to FY 1994. Governmentwide savings would include: Electronic Certification savings for Program Agencies ($2.3 million), eliminating early payments ($10.2 million), reducing the need for magnetic tapes ($1 million), reducing claims processing costs ($7.8 million). FMS would realize savings from: eliminating OCR operations ($2.6 million), reducing postage costs ($1 million) and reducing ADP maintenance costs ($3.5 million).

Collection Improvement Programs

1) Electronic Deposits and Information (EDI) -- $475,000 and 5 FTE -- would accelerate collections by implementing an electronic collection alternative that would allow a direct link between Government and corporate computer and accounting systems. Acceleration of funds through electronics would generate Governmentwide interest earnings of nearly $18.4 million between FY 1990 and FY 1992.

2) Cash Scorecard -- $500,000 -- would create a consolidated database to manage the Government's cash management program. Improved collections systems resulting from this initiative would increase the availability of funds by an average of three days increasing interest earnings approximately $10.5 million annually beginning in FY 1991.

3) Secured Deposits -- $200,000 -- would establish an automated, interactive database of collateral activity by agency account shared by FMS, the agencies, and the Federal Reserve Banks. Depositing funds earlier would increase Governmentwide interest earnings by approximately $1 million annually beginning in FY 1991.

Credit Programs

The resources for the two credit programs described below represent the Service's contribution in support of OMB's credit improvement initiatives.

1) Credit Alert Interactive Voice Response System (CAIVRS) -- $150,000 -- would allow prescreening of direct and guaranteed loan applications providing for better debt management and reducing the potential for defaults.

2) Central Intake Facility -- $1.5 million -- would expand the use of private attorneys to assist in the collection of debt owed to the Government.

Electronic Benefit Services (EBS) Program

-- $1,500,000 -- would reduce the costs associated with processing and delivering benefit payments to recipients by converting check payments to electronic transactions (i.e., plastic access cards, automated teller machines, or point-of-sale terminals). Resources for this program would be used to contract for market research to determine consumer attitudes on the acceptance and use of EBS. A FY 1990 investment in this program would potentially generate savings to FMS of approximately $34.5 million from FY 1991 through FY 1994.

The Financial Management Service generates the majority of its profits by efficiently managing the Government's cash flow, and by effectively collecting money owed to the Government. An infusion of funding for the above initiatives will provide immediate profits and long term returns. The Service has provided you with a conservative option. We cannot offer greater returns in FY 1990, even with more funding, due to start up time and capacity limitations in the short run.

Senator DECONCINI. When you have time, if you would submit that——

Mr. DOUGLAS. Certainly.

Senator DECONCINI [continuing]. I don't want to burden your staff too much, but I would like to see that laid out for several different percentage increases, where you would spend it and what you would try and collect and what you would save by that. Would you, please?

Excuse me. Go ahead.

Mr. DOUGLAS. Page 18 shows that our management of the Treasury Tax and Loan Program results in interest earnings to the Government of approximately 30 times our cost of operating this program. Incidentally, that particular mechanism brought in approximately $780 billion last year. That represents the single largest revenue flow of the Government.

Senator DECONCINI. That is on outstanding loans?

Mr. DOUGLAS. No, sir; that is the Treasury Tax and Loan Program. It involves payments by employers of Social Security taxes and income tax withheld. There is a network of about 14,000 banks that participate in the program.

Senator DECONCINI. Thank you.

Mr. DOUGLAS. On page 20, our cash management earnings since 1983 are shown. The total cumulative earnings figure is $6.2 billion. We are all concerned about the deficit and how to reduce it. Today, the deficit is $6.2 billion less of a problem because of these earnings.

Senator DECONCINI. Can that be increased?

Mr. DOUGLAS. Yes, sir.

Senator DECONCINI. That would be part of——

Mr. DOUGLAS. That would be part of what you had asked about.

Senator DECONCINI [continuing]. What you would collect and be able to acquire more interest on?

Mr. DOUGLAS. Yes, sir; page 22 shows our Credit Administration savings and earnings. For fiscal year 1989 we are approaching $500 million a year in Credit Administration savings and earnings.

Finally, page 28 indicates that FMS has led the business and financial communities, in the private sector, in promoting the use of electronic payments. Before the end of this century, FMS will have passed the mark where we do more electronic fund transfer payments than issue checks. The private sector lags tremendously behind, they are not even close to our percentage. The private sector processes 50 times more checks than electronic payments.

The decade of the nineties will be an exciting time for financial management in the Government. We have great plans to continue to change and improve the way that the Government does its business. As the final page of our booklet makes clear, "FMS programs mean better management of the public's money." The funds that we are asking for in the fiscal year 1990 budget will allow us to continue to deliver vital financial services to the public and make critical improvements. These improvements are detailed in my long statement.

PREPARED STATEMENT

Mr. Chairman, I would like to thank you and the subcommittee for your past support and your continued interest in improving the way the Government manages its $2 trillion annual payment and collection cash-flows. I would be pleased to respond to any questions you have.

[The statements of William E. Douglas and Gerald Murphy follow:]

STATEMENT OF WILLIAM E. DOUGLAS

Mr. Chairman and Members of the Committee, I am pleased to be here today to present the fiscal year 1990 resource requirements of the Financial Management Service (FMS).

As you are aware, the President's fiscal year 1990 budget proposes freezing, at fiscal year 1989 levels, the aggregate spending of domestic programs not directly associated with one of his five broad initiatives. Although our programs are included in this category, the President has emphasized that the freeze is flexible, allowing some programs to increase while others are reduced.

We expect that final decisions about whether to increase or decrease specific programs within this freeze category will be determined through top level deliberations and negotiations between the Administration and Congress.

Today, we are prepared to discuss a number of initiatives, program reforms and/or reductions to 1989 spending levels that were presented in the budget submitted in January. It should be emphasized that the President has not proposed that funds be appropriated for these particular adjustments. Therefore, our discussion must be viewed as providing the Committee with information on "candidate" areas which could be increased or decreased within the context of the overall freeze.

Mr. Chairman, I have had the opportunity to lead the Financial Management Service as a career member of the Senior Executive Service throughout the decade of the 1980's. Since the time that you came to this Subcommittee and I became the Commissioner of FMS, we have seen our Government, both the Executive and Legislative Branches, search for that level of quality public service simply referred to as "good government." Providing a greater benefit, offering better service, requiring a lesser burden—these goals have been the focus of our efforts and actions.

Our efforts—both yours and mine—have resulted in some pretty dramatic changes in the way the Federal Government manages its financial resources. The decade of the 80's has been the most successful period in financial management I have seen in my 30 years of Federal service. Whether we speak about the dramatic expansion of electronic payments and collections, increased cash management earnings, the development of a more effective debt collection program, or improvements in the quality and timeliness of financial information, these years have seen a great deal of progress—but more can and will be done. Complacency, Mr. Chairman, is not in the vocabulary of the Financial Management Service.

Earlier this decade, the Financial Management Service undertook a strategic planning process that produced a vision of FMS in the '90s significantly different from our role at the beginning of this decade. We envisioned a Service with expanded responsibilities in its financial operations functions. We anticipated the importance of better quality financial information as a resource for financial managers in critical decision-making positions. We foresaw a need for FMS to take a leadership role in improving the financial management of the Federal Government's assets and liabilities. In addition, we knew that major upgrades had to be made in the quality of the systems on which both the Executive and Legislative Branches rely for information about the Government's financial condition. Finally, we visualized a new role for FMS in providing consulting and advisory services to assist agencies in meeting their internal financial management needs, developing their capabilities to comply with sound financial management principles, as well as establishing Governmentwide policies and regulations.

To reach this vision, we found it necessary to improve our own operations, systems, and products before venturing out to provide leadership to other agencies. I believe we have established both our credibility and external leadership credentials. In fact, I am proud that the Office of the President has recognized the Financial Management Service in its "Management of the United States" budget report. Throughout the text of this report, FMS is cited for a multitude of far-ranging accomplishments across the Government's financial management spectrum.

For your review, we have prepared a booklet that maps for you some of the key features of FMS' financial management journey during the 1980's. This booklet, which I share with you today, highlights the success of the Service during that time.

The monies we seek in the fiscal year 1990 budget will enable us to build upon the successes that FMS and this Committee have realized throughout the past ten years and work toward meeting the visions we identified earlier this decade. Indeed, woven throughout this request are three themes fundamental to the changing responsibilities of not only the Financial Management Service, but the entire Government as well. I would like to share with you these themes:

Quality Service—because, after all, isn't that what the taxpayers expect of us?

Increased Productivity—because Federal managers are expected to do more with less;

Financial Integrity—because one of the primary missions of the Treasury Department is the soundness of the nation's payment and collection systems;

In presenting our budget request for fiscal year 1990, I would like to spend a few moments reviewing the functions and successes of the Financial Management Service. We review these successes, Mr. Chairman, to demonstrate how far we have come over the past ten years and to show you our potential for even more accomplishments during the coming decade.

Mr. Chairman, the early 1980's was a time of manual and costly payment systems; loose and limited cash management practices; unorganized credit management activities; ineffective debt collection efforts; and financial systems that provided too little useful information to policy-makers. I am happy to report to you, that era is ending.

Today, up-to-date cash management practices save the taxpayer millions of dollars each year. Debt collection is more businesslike and yields greater returns. Under FMS' leadership, financial management has been improved so that agencies can provide the President and Congress with better quality financial information on Government income and expenditures. Although FMS has made important improvements in our electronic and check payment systems, a badly needed system replacement effort is still underway.

The first step toward the 1990's and to the goals we have set starts with our fiscal year 1990 budget request. In addition to our need to maintain our current level of operations, we have requested funding for several very important improvements. Let me summarize these now:

SYSTEM 90 ($4,875,000 and 5 FTEs)—System 90 is an integrated systems approach to modernizing the Service's financial operations, specifically in the areas of payments and claims processing. System 90's standardized language software, modern computer hardware, and unified network are all designed to serve as an up-to-date technological platform capable of supporting both our essential payments and claims responsibilities as well as additional applications generated by FMS' Government financial management responsibilities. This vital investment in systems modernization will ensure the security, reliability, and efficiency of over $1 trillion in Government payments annually; reduce claim settlement time by 80 percent; generate operational savings of at least $27 million over a 7 year system lifecycle; provide better quality responses to payee, agency, and Congressional inquiries; and generally ensure that the Government's payment and claims services at least match the very best that can be found in the private sector.

ELECTRONIC CERTIFICATION ($1,400,000)—Electronic Certification insures both secure and authenticated certification of payment data via electronic transmissions. This initiative will provide a quicker, more efficient and reliable payment system—lessening the Government's vulnerability to attempts at manipulation or fraud—as well as eliminate a highly labor-intensive, paper-based certification operation which involves 7,000 certifying officers and 750 million payments each year. When fully implemented, we estimate that approximately 85 staff years (including 15 staff years at FMS) of work at over 1,400 agency locations across the country will be no longer necessary. Fiscal year 1990 will see this initiative begin to move from the prototype stage to a broader roll-out phase involving a number of Federal Program Agencies in the Washington area.

STAR-PLUS ($250,000)—STAR-PLUS is a single, fully integrated financial information system that will combine the Government-wide Budget Data System (STAR) with the Government-wide Assets and Liabilities Management System (ADEPT). This effort will link agency and program information about assets, liabilities, budget authority and budget execution into one comprehensive, easily accessible database system capable of providing broad-based financial analyses and projections. STAR-PLUS will provide improved control of financial resources and substantially improve cash, credit and debt programs.

FACILITIES MODERNIZATION ($1,683,000)—The Financial Management Service needs to upgrade some of its Regional Financial Centers to provide for improved security, increased productivity, better space utilization, and lower rental costs. The relocation of the Washington Financial Center from its current location in the General Accounting Office Building to the Prince Georges Center Building will complete the consolidation of FMS' headquarters operations into two primary sites. This will result in more efficient and productive use of space, equipment, systems furniture and telecommunications.

In addition, the condition of the Chicago Regional Financial Center is of concern. Improvements scheduled at this Center in fiscal year 1990 will achieve significant economies; enhance the Service'S facilities maintenance program; and improve our employee recruitment, retention and productivity goals. Furthermore, our request is coordinated with a broader General Services Administration initiative to upgrade the entire building.

FOREIGN CURRENCY ACCOUNTING SYSTEM ($200,000)—This initiative automates the Foreign Currency Accounting System. The system will provide an electronic link between disbursing officers (who deal with 135 foreign currencies valued at over $550 million), Treasury's Assistant Secretary for International Affairs, officials at the Commerce Department, and the Financial Management Service. In addition to the on-line exchange of time-sensitive information, annual savings of $46,000 will be realized due to better money management and decreased paper handling.

FEDERAL TAX DEPOSIT AND INVESTMENT REDESIGN ($600,000 and 3 FTEs)—The Federal Tax Deposit (FTD) Redesign program will change the way FMS and the Treasury receive the funds generated by corporate and excise taxes, and the withholding of income and Social Security taxes. This initiative continues development of an Electronic Revenue Network to replace the existing paper-based system. Over $780 billion are collected each year through the FTD system. FMS began the conceptual development of a new, improved electronic system to manage this huge collection flow several years ago. Benefits include: elimination of redundant bank processing of tax accounting data ($37 million savings annually beginning in fiscal year 1993) elimination of one-day free use of Federal Funds by depositories; reduction in collateral capacity problems and increased benefits on demand balances at the Federal Reserve Banks (FRBs); and expedition of tax revenue information to FMS and the Treasury that will allow better cash forecasting and improved monetary control by the FRBs.

IMAGE PROCESSING ($250,000)—Digital image processing is a high technology system being developed by FMS, in cooperation with the Federal Reserve Banks, for capturing, archiving, storing, retrieving, communicating and displaying check information and images related to the check reconciliation and claims processes. This technology will improve claims operations by reducing costs, speeding up response time to claimants, and greatly improving data security, quality and accessibility. It will produce savings of $300,000 each year by eliminating the processing and transportation costs associated with microfilm and magnetic tapes.

CONCLUSION

Mr. Chairman, I would like to thank you and the Subcommittee for your invaluable support in the past and your continued interest in improving the way the Government manages its annual $2 trillion payment and collection cash flows, as well as its even larger array of assets and liabilities. This concludes my formal statement. I would be pleased to respond to any questions you may have.

FINANCIAL MANAGEMENT SERVICE

564

A Journey Toward Financial Management Success

Compiled for the
Appropriation Subcommittee
on
Treasury, Postal Service and General Government

CHAPTER ONE: MISSION OF THE FINANCIAL MANAGEMENT SERVICE

FINANCIAL MANAGEMENT SERVICE

MISSION

PROMOTE THE FINANCIAL INTEGRITY OF THE UNITED STATES GOVERNMENT
THROUGH SOUND MONEY MANAGEMENT ON BEHALF OF THE PUBLIC

THE FINANCIAL MANAGEMENT LEADER

- FMS IS ONE OF THE PRIMARY AGENCIES EXERCISING MANAGEMENT LEADERSHIP IN THE FINANCIAL ACTIVITIES OF THE FEDERAL GOVERNMENT.
- FMS HAS DEVELOPED NUMEROUS PROGRAMS AND ACTIVITIES DESIGNED TO SAVE THE GOVERNMENT MONEY.
- DURING THE DECADE OF THE '80s THE FINANCIAL MANAGEMENT SERVICE'S ACTIVITIES EARNED OR SAVED OVER $21 BILLION.

FINANCIAL MANAGEMENT SERVICE

$21
BILLION

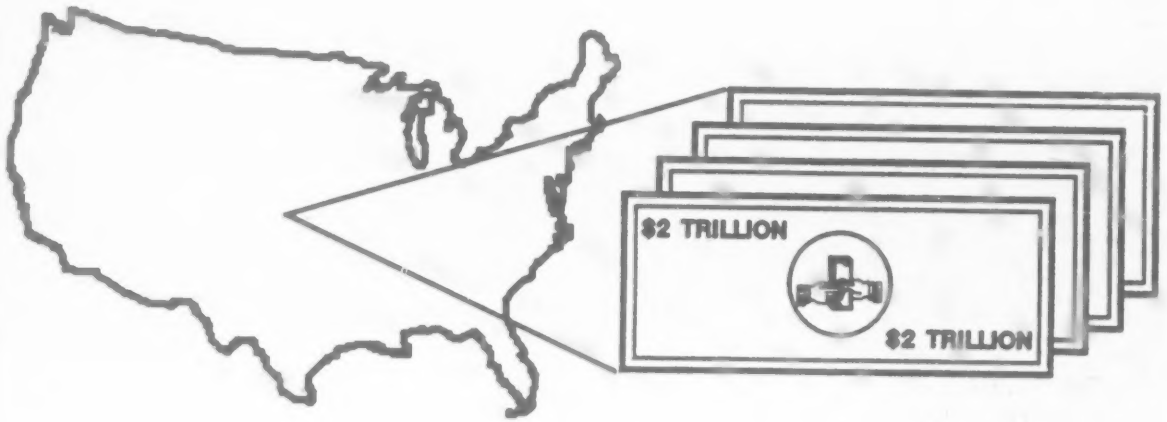
FMS PROGRAMS TAKE A SLICE OUT OF
THE NATIONAL DEFICIT

FMS' IMPACT ON THE NATION'S ECONOMY

- THROUGH THE MANAGEMENT OF FEDERAL DISBURSEMENTS AND COLLECTIONS PROCESSES VALUED AT OVER $2 TRILLION PER YEAR, THE FINANCIAL MANAGEMENT SERVICE HAS A DRAMATIC IMPACT ON THE NATION'S ECONOMY.
  - DISBURSEMENTS
    - THE FINANCIAL MANAGEMENT SERVICE MAKES NEARLY 15 MILLION PAYMENTS TO THE NATION'S BUSINESSES AND OTHER MANUFACTURERS WHO PROVIDE SERVICES TO THE FEDERAL GOVERNMENT. THE NATION'S ECONOMY RELIES UPON THIS DISBURSEMENT SYSTEM AS A SILENT PARTNER--ITS PRESENCE IS UNRECOGNIZED, BUT INDISPENSABLE.
    - OF THE NEARLY 760 MILLION PAYMENTS MADE BY THE SERVICE IN FY 1988, 99.996% WERE MADE TO THE RIGHT PERSON, FOR THE RIGHT AMOUNT, AT THE RIGHT TIME.
    - ON-TIME DISBURSEMENTS OF FEDERAL FUNDS ALLOW THE NATION'S RETIREES TO DEPEND AND PLAN UPON INCOME SECURITY PROVIDED BY THE GOVERNMENT.

- COLLECTIONS
  - THE FINANCIAL MANAGEMENT SERVICE MAINTAINS THE FEDERAL TAX DEPOSIT SYSTEM, THROUGH WHICH ALL BUSINESSES DEPOSIT PERSONAL INCOME TAXES WITHHELD FROM EMPLOYEES' SALARIES, CORPORATE INCOME AND EXCISE TAXES. BUSINESSES DEPOSIT THESE TAXES AT ANY ONE OF 15,000 FINANCIAL INSTITUTIONS.
  - OVER $800 BILLION AND 74 MILLION PAPER TRANSACTIONS ARE PROCESSED THROUGH THIS SYSTEM ANNUALLY.

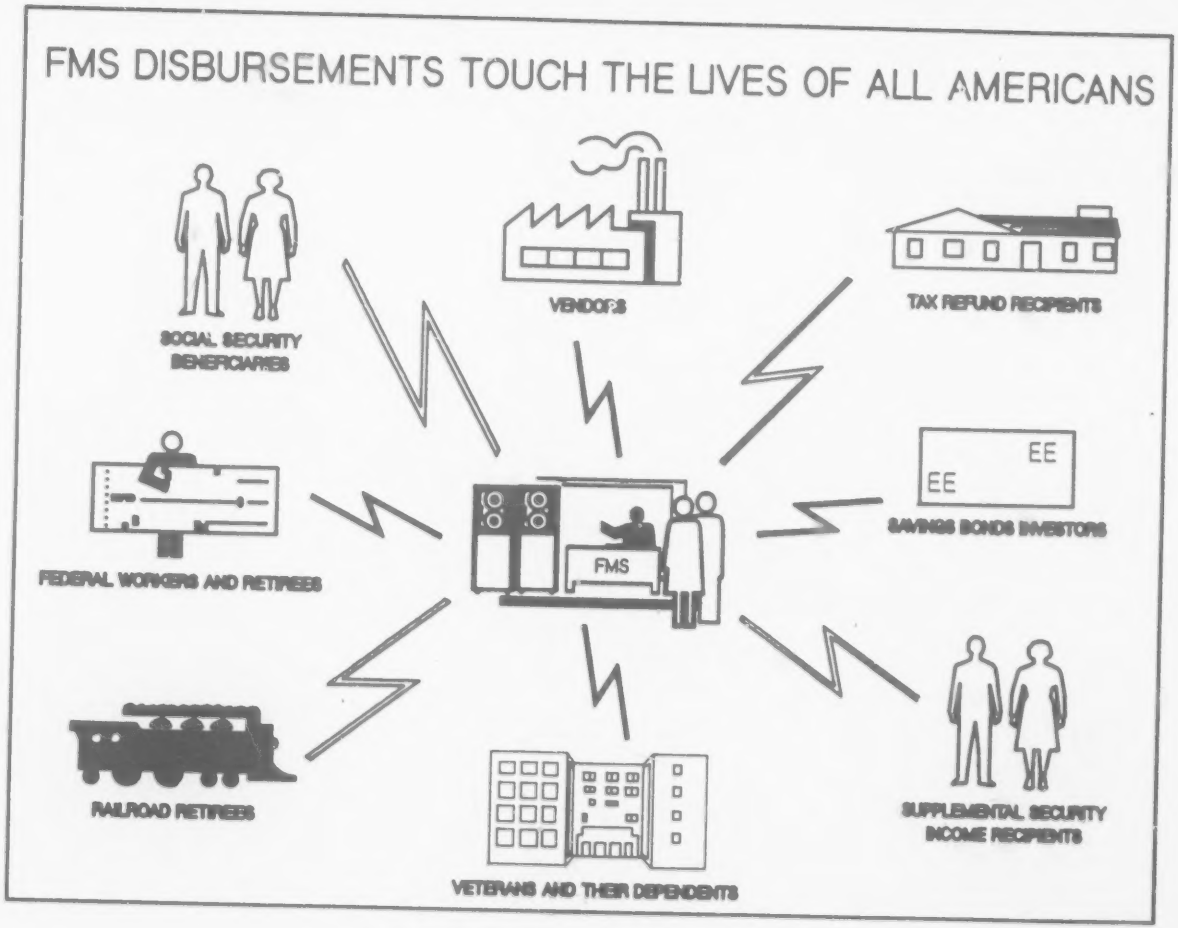
FINANCIAL MANAGEMENT SERVICE
IMPACT ON THE NATION'S ECONOMY



FMS TOUCHES THE LIVES OF ALL AMERICANS

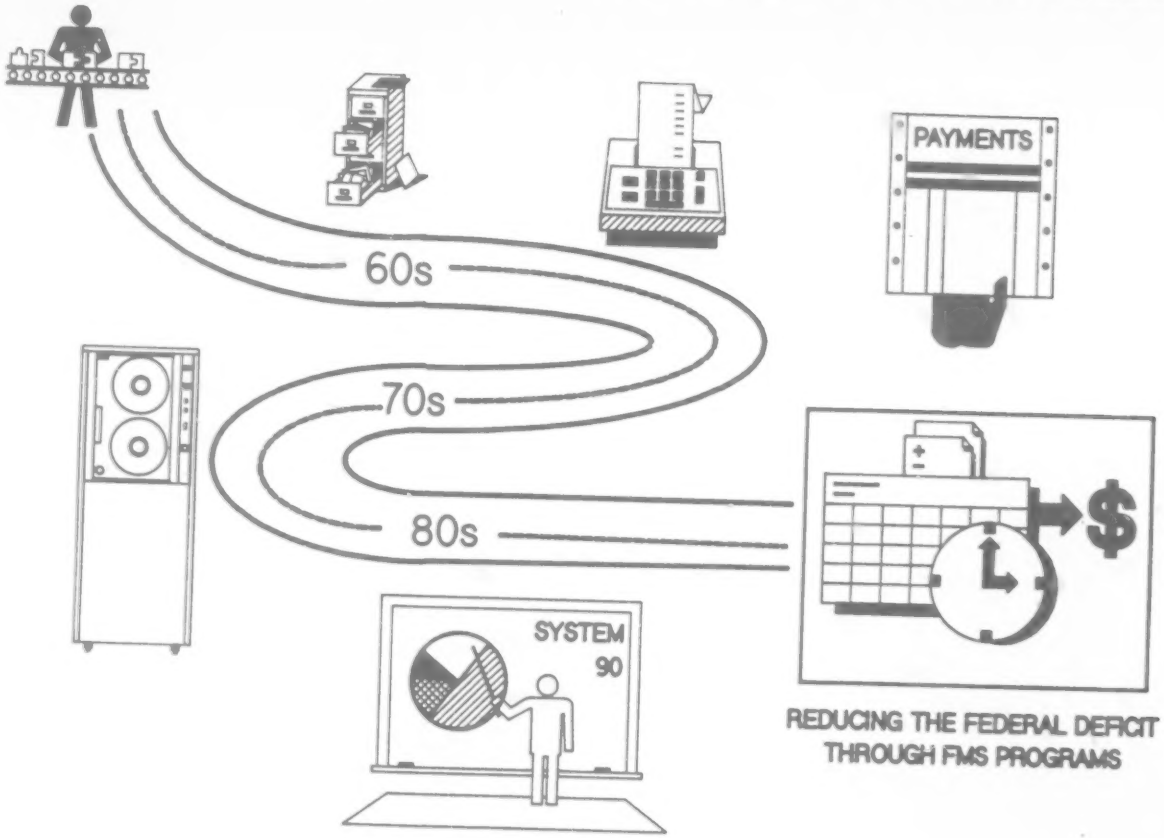
BY ISSUING 85% OF ALL FEDERAL PAYMENTS, THE FINANCIAL MANAGEMENT SERVICE TOUCHES THE LIVES OF ALMOST 200 MILLION AMERICANS. DURING FISCAL YEAR 1988 ALONE, FMS ISSUED:

- OVER 53 MILLION PAYMENTS TO VETERANS AND THEIR DEPENDENTS,
- OVER 550 MILLION PAYMENTS TO SENIOR CITIZENS AND OTHER SOCIAL SECURITY RECIPIENTS,
- NEARLY 83 MILLION TAX REFUNDS,
- OVER 35 MILLION FEDERAL RETIREE AND RAILROAD RETIREE, BENEFITS PAYMENTS,
- NEARLY 15 MILLION PAYMENTS TO AMERICAN BUSINESSES AS VENDORS TO THE GOVERNMENT, AND
- NEARLY 46 MILLION SALARY PAYMENTS TO FEDERAL WORKERS.


FMS DISBURSEMENTS TOUCH THE LIVES OF ALL AMERICANS
SOCIAL SECURITY BENEFICIARIES
VENDORS
TAX REFUND RECIPIENTS
FEDERAL WORKERS AND RETIREES
FMS
EE
EE
SAVINGS BONDS INVESTORS
RAILROAD RETIREES
VETERANS AND THEIR DEPENDENTS
SUPPLEMENTAL SECURITY INCOME RECIPIENTS

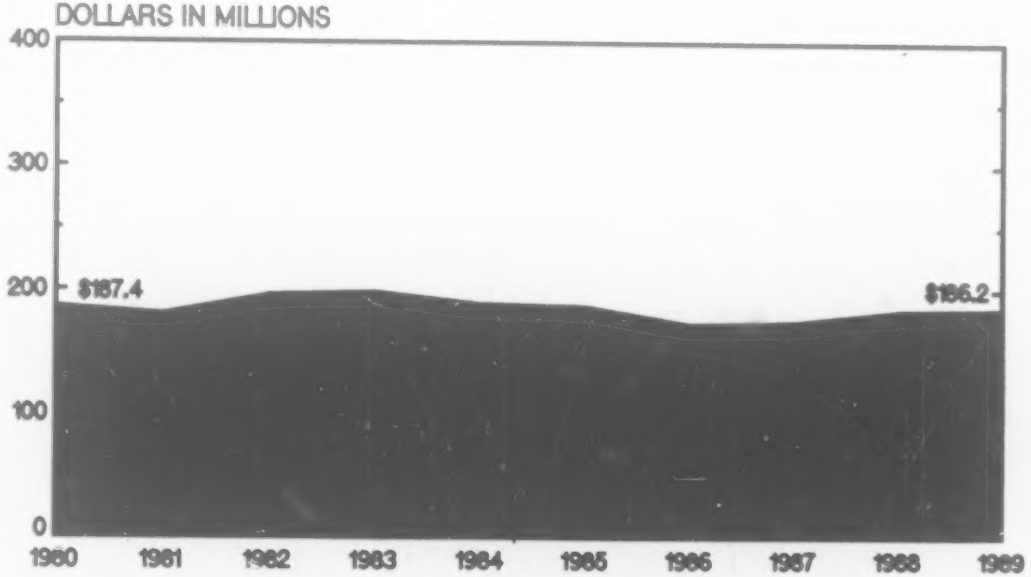
CHAPTER TWO: THE 1980s--A DECADE OF SIGNIFICANT CHANGE

THE ROAD TOWARD FINANCIAL MANAGEMENT SUCCESS

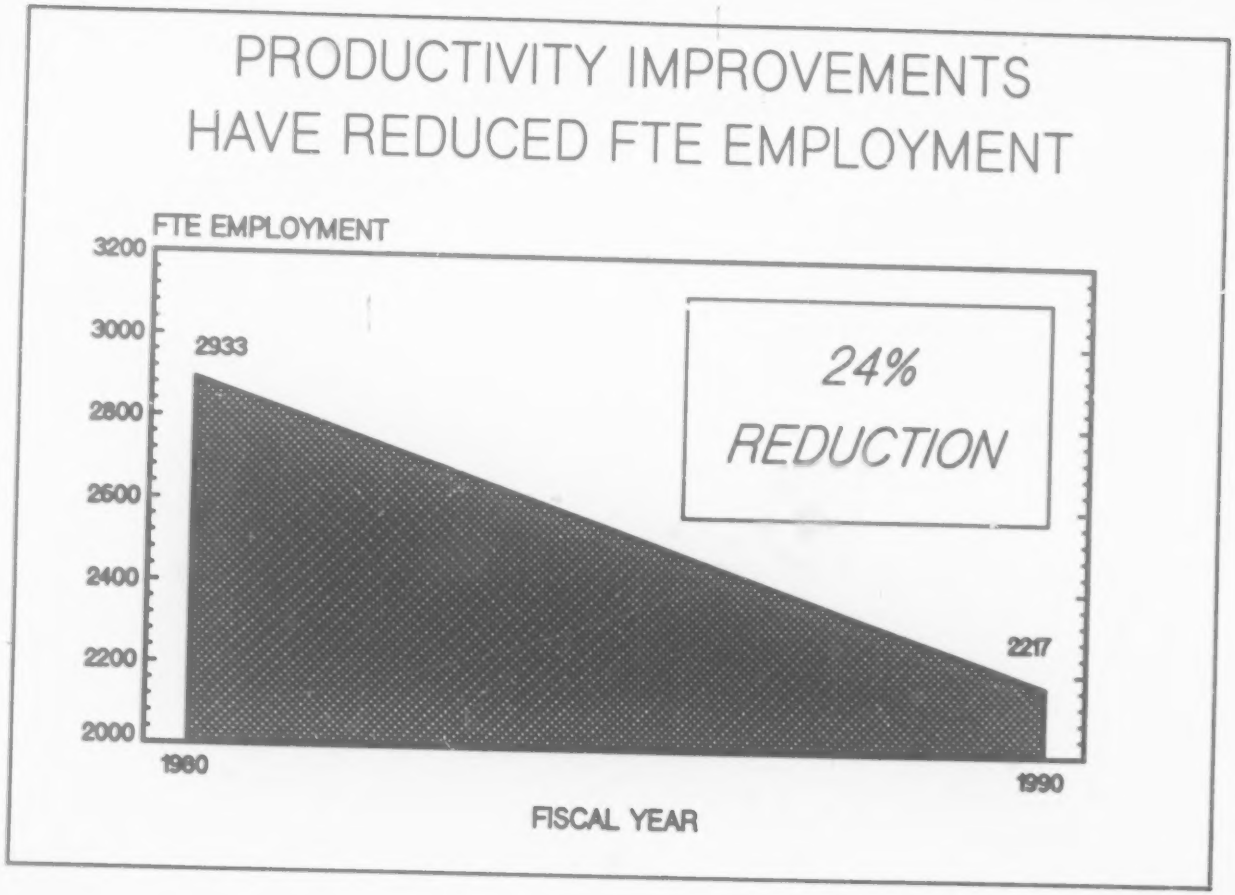


REDUCING THE FEDERAL DEFICIT
THROUGH FMS PROGRAMS

ADJUSTED FOR INFLATION, FMS' BUDGET HAS REMAINED RELATIVELY CONSTANT



BUDGET AUTHORITY IN 1980 CONSTANT DOLLARS


PRODUCTIVITY IMPROVEMENTS
HAVE REDUCED FTE EMPLOYMENT
FTE EMPLOYMENT
3200
3000
2800
2600
2400
2200
2000
2933
2217
24%
REDUCTION
1980
1990
FISCAL YEAR

CHAPTER THREE: A VISION OF FINANCIAL MANAGEMENT SUCCESS

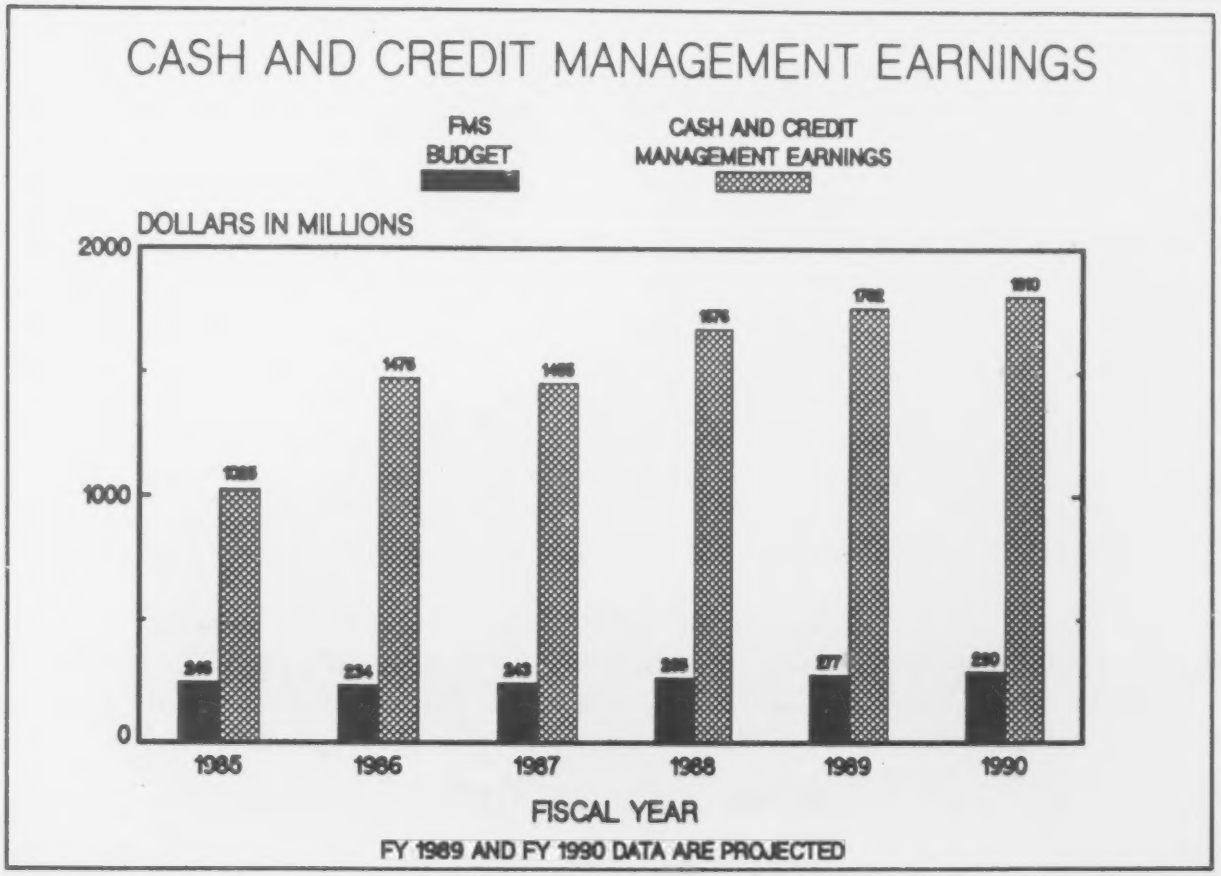
FMS' PROGRAMS ARE PROFIT CENTERS

- CASH AND CREDIT MANAGEMENT EARNINGS OF NEARLY $1.7 BILLION IN FY 1988 WERE OVER 6 TIMES GREATER THAN FMS' FY 1988 APPROPRIATION. CONTINUING OUR TRADITION AS A "MONEY MAKER" FOR THE FEDERAL GOVERNMENT

- FMS PROVIDES THE GOVERNMENT A LARGE RETURN ON ITS INVESTMENT EACH YEAR.

- OVER THE LAST SEVERAL YEARS, ACTUAL SAVINGS HAVE EXCEEDED FMS' PROJECTIONS BY 15% TO 20%.

NOTE: THE LOWER LEVEL OF PROFITS ACCRUING TO THE GOVERNMENT IN FY1987 REFLECTS THE EFFECTS OF GRAMM-RUDMAN-HOLLINGS BUDGET CUTS IN FY 1986.

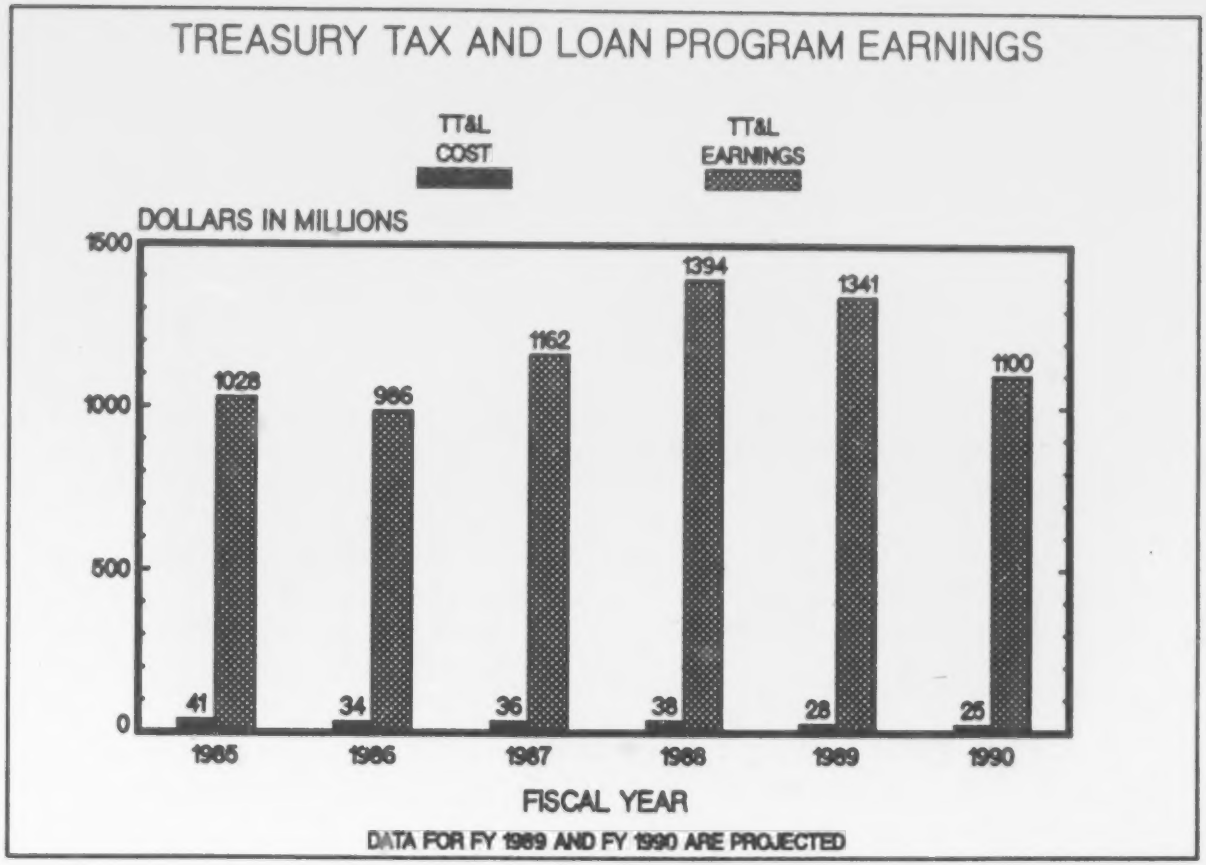

CASH AND CREDIT MANAGEMENT EARNINGS
FMS BUDGET
CASH AND CREDIT MANAGEMENT EARNINGS
DOLLARS IN MILLIONS
2000
1000
0
1476
1485
1676
1782
1910
1085
246
234
243
285
277
290
1985
1986
1987
1988
1989
1990
FISCAL YEAR
FY 1989 AND FY 1990 DATA ARE PROJECTED

TREASURY TAX AND LOAN PROGRAM

- THE TREASURY TAX AND LOAN (TT&L) PROGRAM IS THE INVESTMENT PROGRAM THROUGH WHICH THE GOVERNMENT EARNS INTEREST ON FEDERAL TAX DEPOSITS (FTDs) MADE IN COMMERCIAL FINANCIAL INSTITUTIONS.

  - THE FINANCIAL MANAGEMENT SERVICE HAS DEVELOPED A CONCEPTUAL DESIGN WHICH WILL TRANSFORM THE EXISTING, OUTDATED SYSTEM INTO ONE WHICH INCORPORATES THE LATEST TECHNOLOGIES FOR INFORMATION AND FUNDS TRANSFER.

  - THE NEW SYSTEM WILL STREAMLINE THE PAYMENT PROCESS FOR EMPLOYERS AND OTHER TAXPAYERS, AND WILL ALSO IMPROVE TREASURY'S MANAGEMENT OF ITS DAILY CASH BALANCE, ACHIEVING CASH MANAGEMENT SAVINGS OF $240 MILLION ANNUALLY.

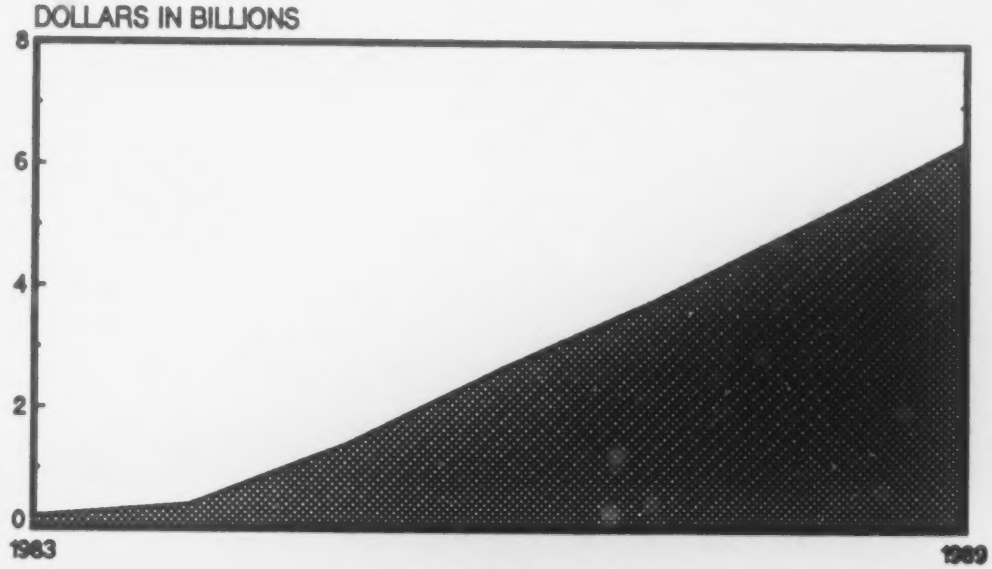

TREASURY TAX AND LOAN PROGRAM EARNINGS
TT&L COST
TT&L EARNINGS
DOLLARS IN MILLIONS
1500
1000
500
0
1028
986
1162
1394
1341
1100
41
34
36
38
28
25
1985
1986
1987
1988
1989
1990
FISCAL YEAR
DATA FOR FY 1989 AND FY 1990 ARE PROJECTED

CASH MANAGEMENT EARNINGS

- ONE OF THE FIRST PRIORITIES OF FINANCIAL MANAGEMENT IMPROVEMENT IS A COMPREHENSIVE CASH MANAGEMENT SYSTEM THAT EMPHASIZES THE TIME VALUE OF THE GOVERNMENT'S $2 TRILLION ANNUAL CASH FLOW. BY USING EFFECTIVE CASH MANAGEMENT TECHNIQUES AND PRACTICES COMMON IN THE PRIVATE SECTOR, FMS GREATLY IMPROVED PAYMENT AND COLLECTION PRACTICES IN THE FEDERAL GOVERNMENT.

- THE RESULTS HAVE BEEN IMMEDIATE AND DRAMATIC. SINCE 1983, THIS CASH MANAGEMENT SYSTEM HAS PRODUCED CUMULATIVE SAVINGS OF $6.2 BILLION. APPROXIMATELY $916 MILLION WAS SAVED IN FY 1988 ALONE. THE GOAL FOR FY 1989 IS $1 BILLION.

CUMULATIVE INTEREST EARNINGS THROUGH BETTER CASH MANAGEMENT

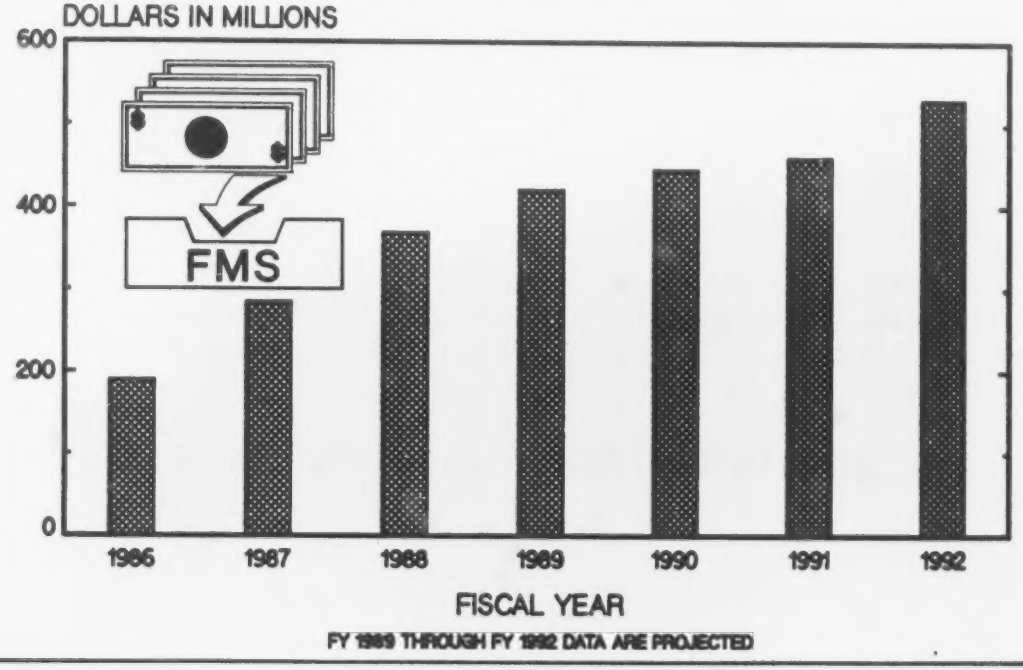


DATA FOR FY 1989 ARE PROJECTED

CREDIT ADMINISTRATION IMPROVEMENTS

- FMS IS WORKING WITH VARIOUS AGENCIES ON THE DEVELOPMENT AND IMPLEMENTATION OF TOOLS, TECHNIQUES, AND PRACTICES FOR IMPROVED CREDIT MANAGEMENT AND DEBT COLLECTION. AMONG THOSE PRESENTLY BEING WORKED ON ARE:
  - INCOME TAX REFUND OFFSET,
  - ADMINISTRATIVE AND SALARY OFFSET MECHANISMS,
  - CREDIT REPORTING BUREAUS BOTH FOR CREDIT INFORMATION AND TO REPORT CERTAIN DELINQUENT DEBTS, AND
  - PRIVATE DEBT COLLECTION AGENCIES.

CREDIT ADMINISTRATION SAVINGS AND EARNINGS



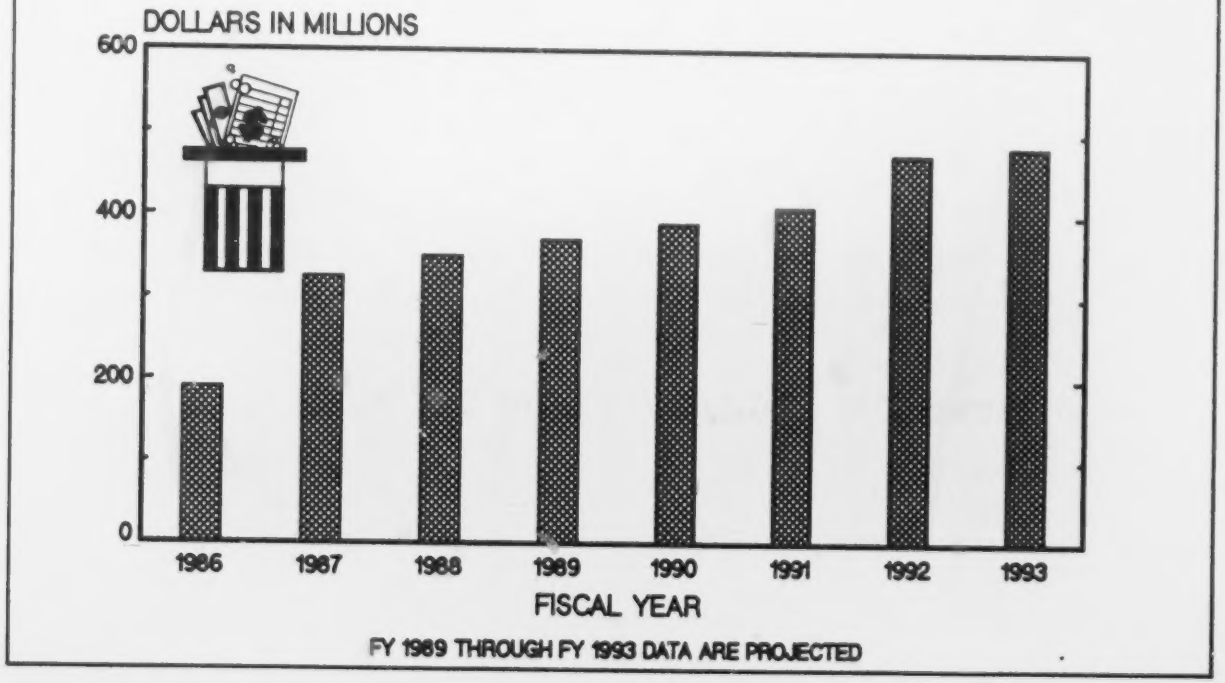
FEDERAL TAX REFUND OFFSET PROGRAM

- IN 1984, THE DEFICIT REDUCTION ACT AUTHORIZED THE COLLECTION OF VALID AND ENFORCEABLE DELINQUENT DEBTS OWED TO FEDERAL AGENCIES VIA TAX REFUND OFFSET BY THE IRS.

- DURING THE FIRST TWO YEARS OF THE PILOT PROGRAM, COLLECTIONS TOTALLED APPROXIMATELY $523 MILLION FROM OVER ONE MILLION ACCOUNTS. IN ADDITION KNOWLEDGE OF THE PROGRAM RESULTED IN OVER 280,000 DEBTORS CHOOSING TO MAKE VOLUNTARY PAYMENTS TOTALLING OVER $140 MILLION IN THIS PERIOD.

- THE PROGRAM HAS BEEN REAUTHORIZED THROUGH FY 1993 WITH PROJECTED CUMULATIVE SAVINGS OF APPROXIMATELY $2.5 BILLION.

FEDERAL TAX REFUND OFFSET PROGRAM

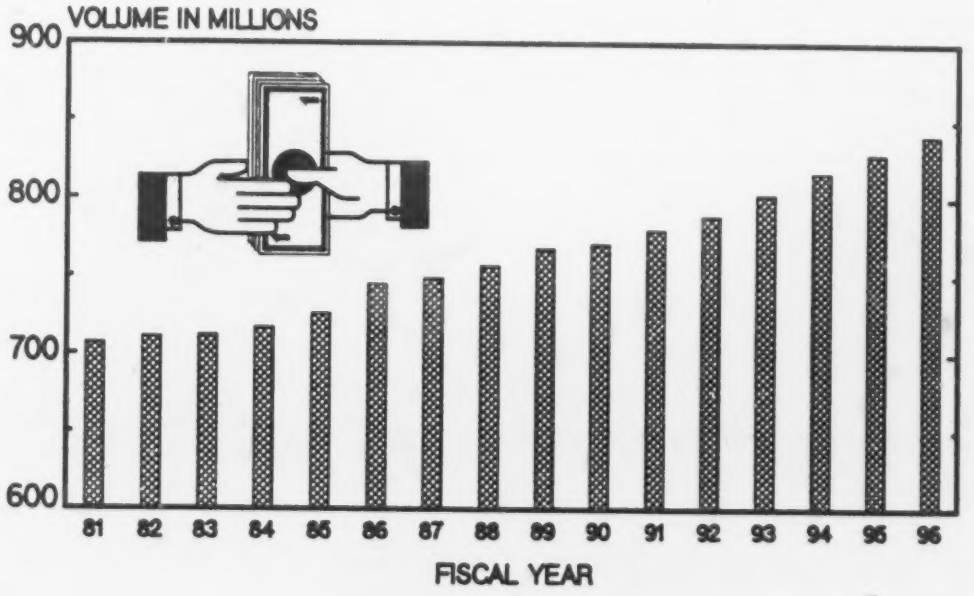


CHAPTER FOUR: IMPROVEMENTS IN DELIVERY OF PAYMENTS

TOTAL PAYMENTS

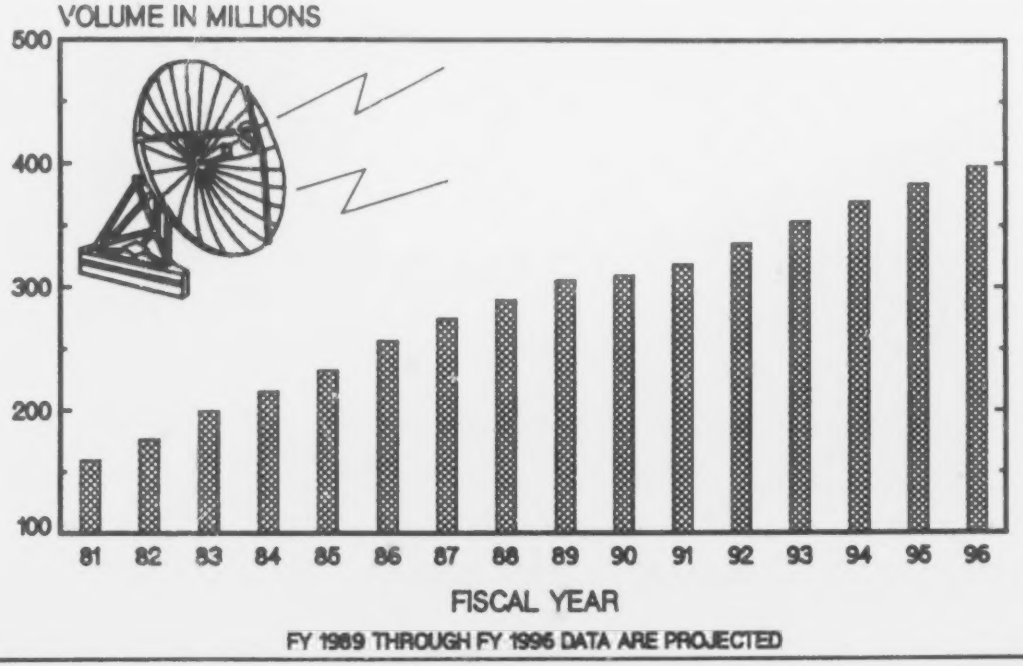
- THE NUMBER OF FEDERAL PAYMENTS CONTINUES TO GROW.
  - CONVERSION TO PAPER CHECKS FROM THE OLD PUNCH-CARD CHECKS RESULTED IN CUMULATIVE SAVINGS OF NEARLY $30 MILLION.
  - POSTAL DISCOUNT PRACTICES, SUCH AS PRE-SORTING, HAVE RESULTED IN COST AVOIDANCE OF $164 MILLION.
- FMS HAS LED THE BUSINESS AND FINANCIAL COMMUNITIES IN PROMOTING THE USE OF ELECTRONIC PAYMENTS.
  - CONVERSIONS FROM CHECKS TO ELECTRONIC FUNDS TRANSFERS HAVE RESULTED IN CUMULATIVE SAVINGS (PARTICULARLY IN AVOIDANCE OF POSTAGE COST) OF $520 MILLION OVER THIS DECADE.
  - BY THE END OF THIS CENTURY, MORE ELECTRONIC FUNDS TRANSFERS WILL BE ISSUED THAN PAPER CHECKS, SAVING THE GOVERNMENT BILLIONS OF DOLLARS.

THE NUMBER OF PAYMENTS CONTINUES TO GROW



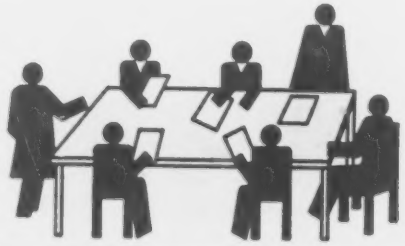
FY 1989 THROUGH FY 1996 DATA ARE PROJECTED

FMS HAS LED THE BUSINESS AND FINANCIAL COMMUNITIES IN PROMOTING THE USE OF ELECTRONIC PAYMENTS



FY 1989 THROUGH FY 1996 DATA ARE PROJECTED

FMS PROGRAMS MEAN BETTER MANAGEMENT OF THE PUBLIC'S MONEY



W. E. DOUGLAS
COMMISSIONER
FINANCIAL MANAGEMENT SERVICE
DEPARTMENT OF THE TREASURY
WASHINGTON, D. C.

STATEMENT OF GERALD MURPHY

Good Morning, Mr. Chairman and members of the Committee. I appreciate the opportunity to discuss the fiscal year 1990 resource requirements of the Financial Management Service.

Throughout this decade, the Financial Management Service has increased its leadership role in the financial management of the Federal Government. In addition to maintaining the Financial Management Service's traditional high level of quality service in the vital services and products it provides, the fiscal year 1990 request is critical to funding major improvements in meeting rapidly expanding responsibilities in Governmentwide financial management.

The Service is requesting $289,695,000 and 2,162 FTEs for fiscal year 1990—an increase of $12.5 million and a net decrease of 78 FTE positions from the fiscal year 1989 resource level. These resources will allow FMS to continue its systems modernization efforts; provide financial leadership within a framework of modern, secure and reliable systems; and continue to respond to growing responsibilities as the lead agency in the Federal Government for cash management, credit administration and financial management systems.

Mr. Chairman, that concludes my prepared statement. I would now like to turn to Commissioner Ernie Douglas who will give you a more complete picture of the Financial Management Service.

SOCIAL SECURITY PAYMENTS

Senator DECONCINI. Thank you, Mr. Douglas, and thank you for the fine work you and your folks do. Indeed it is impressive.

Your bureau processes payments for the Social Security Administration and then bills the trust fund for the direct cost of this processing. Do these funds reimburse you for all of your operational costs associated with the processing of Social Security checks?

Mr. DOUGLAS. No, sir; we do not receive any of that money. We bill the trust fund for all of our expenses involved in supporting Social Security—payments and claims. Actually, we maintain the trust funds as well. That money comes out of the trust fund and goes into the general fund of the Treasury.

Senator DECONCINI. You get credit for it on your income?

Mr. DOUGLAS. Probably only in the life hereafter.

Mr. MURPHY. It does not augment the appropriation.

Senator DECONCINI. No, no, it doesn't augment the appropriation, but you don't even get a credit on paper for it?

Mr. DOUGLAS. No, sir.

Senator DECONCINI. What does that amount to?

Mr. DOUGLAS. This year it will probably be in the neighborhood of $95 million.

SOCIAL SECURITY REIMBURSEMENT

Senator DECONCINI. In the last Congress Senator Domenici and I tried to push through an amendment, with Secretary Baker's support, to require the Social Security Trust Funds to reimburse FMS directly, as a way to ensure that Social Security payments get out on time. Is this a viable approach or a good idea?

Mr. DOUGLAS. Yes, sir; I think it is. As you know, then-Secretary Baker endorsed that before this committee. The problem we have is running into cuts. As you know, it is certainly possible that Gramm-Rudman reductions will be invoked this year. If that occurs, because of our many fixed costs, we have nowhere to take those kinds of cuts except in our efforts to modernize our systems, like the system that supports these payments.

SEQUESTRATION IMPACT OF SOCIAL SECURITY PAYMENTS

Senator DECONCINI. That was my next question. If such legislation is not enacted in this Congress, what would be the impact on the processing of Social Security Trust Fund payments if Gramm-Rudman-Hollings went into effect?

Mr. DOUGLAS. Well, it is obvious that we would not, for example——

Senator DECONCINI. If we had to sequester.

Mr. DOUGLAS. I beg your pardon?

Senator DECONCINI. If we had to sequester.

Mr. DOUGLAS. We would not have the funds needed to make all of our payments, manage all of our collection activities——

Senator DECONCINI. What would you do? Just slow down?

Mr. DOUGLAS. I think it is fair to say that we would find a way to avoid stopping payments to Social Security recipients, veterans, railroad retirees, and that sort of thing. To do that we would have to go into our very modest funds for improvement projects. We are robbing Peter to pay Paul. I mean, we are mortgaging the future and putting in jeopardy the very system that processes these payments.

Senator DECONCINI. So if we had this accounting modification or this legislation, you would obviously realize some——

Mr. DOUGLAS. Yes, sir; it would take the money and protect it from sequestering in the same way that Social Security payments are protected.

FTD FEE PAYMENTS

Senator DECONCINI. The fiscal year 1989 Treasury appropriation bill directed FMS to reduce by $3.2 million its payments to commercial institutions for electronic fund transfers. What has been the effect of that directive?

Mr. DOUGLAS. We published regulations in the Federal Register a little over 2 months ago. We announced a reduction in the fees paid to banks doing more than $10 million in the FTD business annually, from 50 cents per transaction to 30 cents per transaction. I think we received six responses. None of the responses, as I recall, was favorable, but none proposed to go to war about it. They only lamented the need to reduce the fees.

Senator DECONCINI. Has it had an impact on delivery of services from the banks?

Mr. DOUGLAS. It has not, because it just takes effect this month.

Senator DECONCINI. So we don't know as yet what the effect might be?

Mr. DOUGLAS. We do not know, but frankly, Mr. Chairman, I would doubt that there will be an impact. I think that if there had been major opposition, we would have heard about it, because we made sure that the banking industry was aware of the change.

I just spoke to the Independent Bankers Association, which are the small community banks, at their convention last week. I made it obvious that I was willing to talk about the change, but there was no great interest.

SUBMITTED QUESTIONS

Senator DECONCINI. Thank you, Mr. Douglas, very much. We will submit the balance of our questions, and some from Senator Domenici as well.

Mr. DOUGLAS. Thank you, Mr. Chairman.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR DECONCINI

SYSTEM 90

Question. Your FY 1990 budget request proposes an increase of $12.5 million over the FY 1989 enacted level of $277.3 million for the programs and activities of the Financial Management Service (FMS). The most notable increase in FY 1990, $4.9 million, is for the implementation of System 90, your payment, claims and financial information system network. Funding was provided in Fiscal Years 1988 and 1989 to get this system in place.

How much has FMS allocated to System 90 to date, and if the FY 1990 requested funds are approved, what would be the remaining cost to complete the system and bring it on-line in 1993?

Answer. $10 million has been made available for the System 90 effort to date -- $6.8 million in FY 1988 and $3.2 million in FY 1989. The total projected cost of System 90 development and implementation is approximately $60 million. If the FY 1990 request of $15.3 million is approved, an additional $35 million will be needed (the bulk of which is required in FY 1991) to complete development of this critical system and bring it on-line in the Regional Financial Centers (RFCs). Roll-out from the pilot system to the RFCs will begin in FY 1993.

Question. Once operational, how will System 90 improve your delivery of services and the time it takes to process payments?

Answer. The System 90 telecommunications network will allow more efficient and secure transfer between agency and RFC systems of the information required for issuing Federal payments. Increased speed and higher reliability of data transfer will be achieved by eliminating the time vagaries of voucher mailing through secured electronic transmission of payment requests. Agencies will be able to telecommunicate data closer to the date of payment issuance, ensuring that beneficiary names and payment destinations are up-to-date, and System 90 warehousing capabilities will ensure that vendor payments are made on designated payment dates. On-line query capabilities will permit agencies to access FMS payment and claims data directly to obtain status and accounting information, and will ensure the accurate and timely financial information and reporting needed by Treasury, OMB, Congress, and other organizations. Processing back-up capabilities will guard against interruptions in service caused by equipment or system failures.

Question. I notice your justification estimates annual savings of $14 million once this system is operational. How were these savings calculated?

Answer. $10.2 million of the $14 million are cash management earnings -- increasing the interest the Government earns on funds on deposit by eliminating early payments. System 90 will provide warehousing capabilities to eliminate early payments caused by poor agency payment practices and variances in delivery times between agencies and RFCs.

The remaining $3.75 million are operational savings derived as follows: a $1 million reduction in postage costs by increasing the volume of checks qualifying for presort discount; a $1 million savings in supply, transportation and storage costs by eliminating the use of magnetic tapes; a $1 million reduction in hardware and software maintenance costs; and $750,000 in savings from eliminating manual signature verification and OCR processing practices.

Question. What will happen if the request for the additional $4.9 million for System 90 is not approved for FY 1990? If we had to approve a lower amount for System 90, can you tell us what component of the project would be your priority and what the estimated cost would be?

Answer. FMS has reached a critical point in System 90 development. The entire amount of the FY 1990 funding request is needed to award a contract resulting from the Request for Proposal (RFP) that was released to the vendor community on March 15, 1989. The RFP contains mandatory requirements for System 90 based on new initiative funding; therefore, any reduction in FY 1990 will require FMS to revise these requirements and adopt a piecemeal approach to system development. Additional costs of as much as $5 million would be incurred if we piecemeal software development since a software design has a very limited shelf-life. In addition, the RFP would have to be withdrawn, rewritten, re-advertised, and re-issued, resulting in a minimum nine to twelve month delay in contract award and the System 90 implementation schedule. With full funding in FY 1990 however, FMS can be reasonably certain that it will receive meaningful responses from appropriate vendors, fund enough of the work to foster very competitive bidding, sustain the momentum of the project, and continue to maintain credibility within the Service.

Further delays in System 90 development and implementation will cause the Government to lose all or a portion of the savings expected. Our Department will lose hard earned credibility within the Federal Program Agency community, with the financial institutions with whom FMS deals, oversight agencies, the private sector community, and with the American citizens that expect responsible payment and claims services from their Government. Further delay of the System 90 effort will additionally result in:

- o an ever increasing risk that current systems will fail and Federal payments will not be made on their scheduled dates;
- o the perpetuation of delays of as long as 45 days to settle a claim against a payment;
- o greater exposure to fraud in the current systems;
- o spiralling hardware and software maintenance costs associated with today's outmoded systems; and
- o an inability to support badly needed new financial management and financial information systems due to a lack of system capacity.

ELECTRONIC CERTIFICATION

Question. Tell me about your Electronic Certification project to expedite the Federal payments system. You have requested an increase of $1.4 million for this activity in FY 1990 and as I understand it, you intend to move this from a pilot project into full implementation in the Washington area.

What are the cost savings associated with the Electronic Certification project? Will it reduce the need for personnel?

Answer. Certification of payment data is currently a manual operation at both Federal Program Agencies (FPAs) and the Regional Financial Centers (RFCs). A manually prepared voucher is certified when an FPA certifying officer affixes his/her signature to the voucher, which authorizes hundreds -- even thousands -- of payment requests. Vouchers are then either mailed or hand carried to the RFC for payment. Before payments are processed, the certifying officer's signature must be manually verified by visual comparison to the signature on an authorization card in the RFC files.

Electronic certification uses a cryptographic process to attach a Message Authentication Code (MAC) to a payment request submitted electronically by an FPA certifying officer. Each certifying officer is issued a unique cryptographic key and a Personal Identification Number with which to authorize payments. While the process is much more secure, it is similar to the use of an ATM card to request the issuance of cash at a bank.

Electronic Certification increases the security and integrity of payments processing by reducing the possibility of fraudulent or erroneous payment certification. It replaces the error-prone process of manual signature verification with an automated process and provides more control over payment data, dramatically reducing the possibility of making duplicate payments. Payments transmitted to an RFC one

day will automatically be issued the following day, eliminating uncertainties due to mail delays.

When fully implemented in all RFCs, electronic certification will generate Governmentwide savings of approximately 85 FTEs and $1.8 million annually. Electronic certification reduces personnel requirements in both the Service's RFCs and in other Government agencies by eliminating manual preparation, processing and verification of the validity of paper payment vouchers.

FACILITIES MODERNIZATION

Question. The other significant increase in your budget for FY 1990 is $1.7 million for Facilities Modernization. Your justification states that you intend to use these funds to purchase a new freight elevator for your Chicago Financial Center and relocate personnel from the Washington Financial Center until asbestos removal is completed. I understand you intend to relocate to the Prince George Center Building in Maryland.

Why aren't these costs covered by your standard level user charge under the GSA?

Answer. The General Services Administration (GSA) is funding a large portion of the Chicago and Washington RFC renovations. However, GSA policy is to pay for items they consider to be standard, but not certain other costs that are necessary for FMS' operations, such as electrical service for systems furniture, certain essential equipment for computer rooms and computer security systems, and the relocation of equipment and staff.

Due to the nature of our RFC operations, FMS has unique facilities requirements which need special security attention. The location and accessibility of the current freight elevator is a security risk to our check production/mailout operations. FMS needs a new elevator which will be located to assure tight security, as well as provide maximum reliability for timely check delivery.

FEDERAL TAX DEPOSIT AND INVESTMENT REDESIGN

Question. I see you have requested $600,000 in FY 1990 for Federal Tax Deposit and Investment Redesign. What is the total cost of this project and when do you expect full implementation? What portion of the total costs will be supplied by the IRS and what portion will be provided by FMS?

Answer. The total projected cost of the Federal Tax Deposit System Redesign, including both IRS' and FMS'

portion, will be approximately $21.8 million. IRS' total projected costs associated with the project are estimated to be approximately $20 million, and FMS' total projected costs associated with the project are estimated to be approximately $1.8 million. By the end of FY 1991, requirements analysis for the Redesigned Federal Tax Deposit (FTD) system will be complete. The RFP will go out in FY 1992 for system design and testing. The Redesigned FTD system will be piloted during FY 1994 with full implementation set for FY 1995.

INITIATIVE PRIORITY RANKING

Question. You have a series of other increases planned in FY 1990 for various accounting and financial information systems. Can you provide a priority ranking of all of the initiatives planned in FY 1990? Include the estimated costs in this listing, please.

Answer. The priority ranking of FMS' FY 1990 initiatives (and their estimated <u>total</u> costs) is as follows:

1.	System 90	$ 60.3 million
2.	Electronic Certification	$ 4.6 million
3.	STAR-PLUS	$ 1.5 million
4.	Facilities Modernization	$ 14.2 million
5.	Foreign Currency Accounting System	$ 350 thousand
6.	Federal Tax Deposit and Investment Redesign	$ 1.8 million
7.	Image Processing	total not yet determined

COMMUNICATIONS COST REDUCTIONS

Question. I am interested in an explanation of the proposed $2.2 million reduction in communications and utilities. Your justification states that this is a one-time only reduction due to a prepayment to the Department for the Digital Telecommunications System (DTS). When was this charge prepaid and what will be the annual cost once DTS comes on-line? How does that amount compare to your previous costs for communications?

Answer. Digital Telecommunications System (DTS) charges will be prepaid from FY 1989 funds. The Department has informed us that FMS' DTS costs will be $1,150,000 in FY 1991, and annual costs are expected to remain at approximately that level. The only DTS costs FMS has incurred to date are one-time installation and start-up costs of $1,346,000 -- there are no previous year amounts available for comparison.

A-76 SAVINGS

Question. Your FY 1989 non-recurring costs total $12.1 million and 86 FTEs. First, tell me about the projected $1.7 million and 86 FTE reduction from productivity and A-76 savings. How do you plan to achieve these savings? Can they be realized without cutting into program requirements?

Answer. The FY 1990 savings are to be derived from implementing A-76 studies and ZIP+4 presorting. These savings are broken down as follows: $731,000 and 86 FTE positions from A-76 studies; and $550,000 from implementing ZIP+4 presorting. FMS is currently identifying areas for A-76 review.

The FTE reduction assumes that FMS can achieve the same productivity savings as other Federal agencies have achieved from A-76 efforts. The FTE cut continues the Headquarters CP&R system redesign savings gained in FY 1989. The remaining FTE reduction will be achieved through the successful implementation of A-76 studies. We do not anticipate any major negative impact with regard to meeting program requirements.

PROGRAM REDUCTIONS - POSTAGE

Question. Secondly, I am concerned about the program reductions of $6.2 million. Your justification states the savings will come from a decrease in postage costs as a result of electronic fund transfers and a reduction in payments to banks for the processing of Federal Tax Deposits.

Why are you showing an increase of $5.3 million for postage costs due to inflation, then showing a reduction associated with Electronic Fund Transfers? How can you be sure that you won't end up in another situation where you will have to reprogram additional monies in FY 1990 for postage costs if you fail to achieve your estimated goals of electronic transfers?

Answer. The shortfall came about from <u>not</u> receiving a Supplemental for the postage rate increase of April 1988, <u>not</u> because of poor volume estimating. While we cannot be 100% certain, our estimates may vary by one to five percent, experience indicates we have not required additional funding for postage other than for postal rate increases.

QUESTIONS SUBMITTED BY SENATOR DOMENICI

$5.5 MILLION TRANSFER AUTHORITY

Question. The Fiscal Year 1990 Budget includes a proposed redirection of the Service's Fiscal Year 1989 resources to fully fund the $11.6 million needed as a result of the April 1988 postage rate increase. Specifically, a $2.5 million reduction associated with 83 FTE positions unfilled in Fiscal Year 1988, a $3.5 million reduction resulting from the delay of System 90 computer acquisition, and a $5.5 million further reduction in Federal Tax Deposit fee payments are being proposed.

The Administration has also requested authority to transfer $5.5 million to the FMS from other Fiscal Year 1989 funds available to the Treasury Department.

Is the $5.5 million proposed to be transferred from other Treasury accounts in addition to the $11.6 million generated by administrative actions of the FMS or is it intended to avoid the $5.5 million further reduction in the Federal Tax Deposit fee payments?

Answer. The $5.5 million transfer is intended to avoid the further reduction in Federal Tax Deposit (FTD) fee payments. Based on current workload projections, $11.6 million will be sufficient to fund the postage rate increase in FY 1989.

The reduction to FMS' appropriation request, increases in workload, and a $5.5 million "loan" to FMS' postage account have all contributed to reduce the funds available for FY 1989 FTD fee payments, far below anticipated expenditures. FMS recently instituted a policy change reducing the fee paid to large depositaries for processing FTD coupons from $.50 to $.30. This change will generate savings of $6 million, covering the shortfall caused by the appropriation reduction and the increase in workload, but will not cover the $5.5 million redirected to the postage account. The $5.5 million transfer is necessary if FMS is to continue compensating banks for FTD processing beyond the third quarter of FY 1989.

Question. Perhaps you can't answer this question, but maybe officials with the Treasury Department who are here with us can. If the Congress provides the additional $5.5 million in transfer authority requested, from which Treasury accounts will this $5.5 million be taken? Please be specific as to the appropriation account and the amount of the reduction proposed in each account.

Answer. The Department has not yet identified the specific accounts from which the $5.5 million will be transferred. This information, to include the accounts

affected and the amounts to be transferred, will be provided to Congress as soon as final determinations have been made.

MODERNIZATION EFFORTS

Question. For Fiscal Year 1990, $9.3 million and 8 FTE positions are being requested for FMS modernization efforts; These include System 90, Electronic Certification, STAR-PLUS, Facilities Modernization, the Foreign Currency Accounting System, FTD/Investment Redesign and Image Processing. Would you please provide this Subcommittee additional detail on each of these modernization efforts. Please give us the total projected cost of each of these efforts, the amount spent to date, the implementation schedule for each project, and the outyear funding requirements (please be specific as to the amount projected to be required in each Fiscal Year).

Answer.

SYSTEM 90

1. Total Projected Cost: $60,300,000
2. Amount Spent to Date: $ 8,600,000 (of $10 million made available)
3. Implementation Schedule:

FY 1990 -- Begin software design and development.
-- Development site operational.

FY 1991 -- Pilot site testing and acceptance.
-- Acquire hardware and software for all RFCs.

FY 1992 -- Pilot system becomes operational.
-- Begin installation of hardware/software in other RFCs.

FY 1993 -- System roll-out to other RFC sites begins.

4. Outyear Funding:
FY 1990 -- $15,285,000
FY 1991 -- $26,010,000
FY 1992 -- $4,670,000
FY 1993 -- $4,348,000

ELECTRONIC CERTIFICATION

1. Total Projected Cost: $4,461,000
2. Amount Spent to Date: $550,000
3. Implementation Schedule:

FY 1988 -- Development and testing - prototype system.

FY 1989 -- Complete required enhancements and expand the Washington Financial Center (WFC) system to accommodate 10-20 additional user organizations.

FY 1990 -- Complete implementation for all WFC users.

FY 1991 - 1992 -- Roll-out of electronic certification to agency field locations begins.

4. Outyear Funding:
FY 1990 -- $1,400,000
FY 1991 -- $2,661,000

STAR-PLUS

1. Total Projected Cost: $1,518,000
2. Amount Spent to Date: None.
3. Implementation Schedule:

FY 1990 -- Perform a conversion study to determine the best methods of combining STAR and ADEPT into a common database and allowing agencies on-line access to the system.

FY 1991 -- Complete development of analytical software tools and recurring financial information reports.
-- Begin training employees on the new system.

FY 1992 -- Complete software development.
-- Test, implement and operate the system.

4. Outyear Funding:
FY 1990 -- $250,000
FY 1991 -- $1,061,000
FY 1992 -- $207,000

FACILITIES MODERNIZATION

1. Total Projected Cost: $14,197,000
2. Amount Spent to Date: $797,000
3. Implementation Schedule:

FY 1990 -- Start construction on Chicago RFC elevator.
-- Begin relocation and construction of RFC projects.

FY 1991 -- Construction and renovation of RFCs.
-- Complete renovation, relocate Washington RFC.

FY 1992 -- Construction and renovation of RFCs.

FY 1993 -- Construction and renovation of RFCs.

4. Outyear Funding:
FY 1990 -- $1,683,000
FY 1991 -- $5,795,000
FY 1992 -- $1,052,000
FY 1993 -- $4,295,000
FY 1994 -- $575,000

FOREIGN CURRENCY ACCOUNTING SYSTEM

1. Total Projected Cost: $350,000
2. Amount Spent to Date: None.
3. Implementation Schedule:

FY 1990 -- Automate Foreign Currency Accounting System

FY 1991 -- Continue to modify and enhance the Foreign Currency Accounting System.
-- Install Automated Data Transfer capability with the Department of State.

4. Outyear Funding:
FY 1990 -- $200,000
FY 1991 -- $150,000

FEDERAL TAX DEPOSIT AND INVESTMENT REDESIGN

1. Total Projected Cost: Not yet determined.
2. Amount Spent to Date: $200,000
3. Implementation Schedule:

FY 1989 -- Design and development of the Federal Tax Deposit system.

FY 1990 -- Develop an extensive education/marketing campaign to ensure successful implementation of the FTD system.

FY 1991 -- Begin phased-in implementation of the FTD system.
-- Design and development of Investment System.
-- Develop an extensive education/marketing campaign to increase participation in Treasury's Investment Program.

FY 1992 -- On-going operations research -- FTD system.
-- Phased-in implementation of the Investment System.

FY 1993 - 1995 -- Systems analysis and assessment; on-going operations research, maintenance, enhancement and oversight functions.

4. Outyear Projections:
FY 1990 -- $600,000

The division of duties between all agencies involved has not yet been determined. IRS is responsible for funding the system redesign. The cost to FMS is not expected to exceed $500,000 each year from FY 1991 through FY 1994.

IMAGE PROCESSING

1. Total Projected Cost: Not yet determined.
2. Amount Spent to Date: None.
3. Implementation Schedule:

FY 1990 -- Determine system requirements

FY 1991 -- Buy and test first system (prototype)

4. Outyear Projections:
   FY 1990 -- $250,000
   FY 1991 -- $115,000

The respective roles of FMS and the Federal Reserve System in implementation of this project have not yet been decided. Outyear funding requirements for Image Processing cannot be determined until FMS' operational responsibilities have been identified.

BANK COMPENSATION

Question. The Fiscal Year 1990 appropriations justification indicates that the budget does not include funds to compensate banks for facilitating the collection and control of government receipts due to the bank's use of governmental balances. Is this a change in policy? If so, why?

Answer. No, this is not a change in policy. In recent years, FMS has included a statement in our budget submission indicating the cost of our long standing practice -- dating back to the 19th century -- of using compensating balances to pay banks for their role in the collection of Government revenues. This disclosure is made to ensure that the Congress is informed of the cost of maintaining the Government's financial infrastructure.

OMB/FMS PARTNERSHIP

Question. The justification indicates that over the past five years the OMB/FMS financial management partnership has resulted in aggregate earnings, savings and cost reductions in excess of $9.4 billion. Specifically, how has this partnership achieved this level of savings?

Answer. The Financial Management Service was designated the lead agency for developing and implementing effective cash management practices Governmentwide in 1983. FMS was also designated lead agency responsibility for implementing effective credit administration and debt collection practices in 1986.

Working in partnership with OMB and program agencies, FMS has been able to assist, oversee, and monitor program agencies' implementation and operation

of management improvements that it has fostered. Examples of these improvement programs and/or mechanisms are as follows:

- o Treasury General Account Cash Concentration System
- o Treasury Limited Depositary Cash Concentration System
- o Fedwire Deposit System
- o Lockboxes
- o Preauthorized Debits
- o Credit Card Networks
- o The Treasury Tax and Loan Program
- o The Federal Tax Refund Offset Program
- o The Debt Collection Program
- o The Administrative and Salary Offset Program

As reflected in the President's Management Report, FMS and OMB have institutionalized a process whereby agency managers are involved in the planning and goal setting of their financial management improvements. FMS will continue to work diligently with agency managers to improve and implement their financial management plans as well as resolve any related issues.

ELECTRONIC CERTIFICATION

Question. Could you please tell us more about the Electronic Certification initiative for which $1.4 million is being requested in Fiscal Year 1990 and the level of savings projected to result from this initiative in future years? How will it improve security in the payments area?

Answer. Certification of payment data is currently a manual operation at both Federal Program Agencies (FPAs) and the Regional Financial Centers (RFCs). A manually typed voucher is certified when an FPA certifying officer affixes his/her signature to the schedule, which contains hundreds -- even thousands -- of payment requests. Schedules are then either mailed or hand carried to the RFC for payment. Before payments are processed, the certifying officer's signature must be manually verified by comparison to the signature on an authorization card in the RFC files.

Electronic certification uses a cryptographic process to attach a Message Authentication Code (MAC) to a payment request submitted electronically by an FPA certifying officer. Each certifying officer is issued a unique cryptographic key and a Personal Identification Number with which to authorize payments. While the process is much more secure, it is similar to the use of an ATM card to request the issuance of cash at a bank.

Electronic Certification will increase security by reducing the possibility of fraudulent or erroneous payment certification. It replaces the error-prone process of manually verifying certifying officer

signatures with an automated process. In addition, Electronic Certification will provide more control over payment data. The possibility of making duplicate payments will be dramatically reduced. Payments transmitted to an RFC one day will automatically be issued the following day, eliminating uncertainties due to mail delays. When fully implemented in all RFCs, electronic certification will generate Governmentwide savings of approximately $1.5 million annually.

SALARIES AND EXPENSES TRANSFER

Question. The Fiscal Year 1990 request includes a $200,000 transfer from your Salaries and Expenses account to the Statutory Inspector General's account. No positions are proposed to be transferred. What level of funding and number of positions are currently devoted to those responsibilities being shifted to the new Statutory Inspector General? If you currently do not expend any resources for these purposes, why are funds being transferred from your account?

Answer. The Financial Management Service currently devotes no resources to activities that will be the responsibility of the Statutory Inspector General. However, increasing the size of the Inspector General staff requires additional ADP capacity for management, control, and ADP auditing activities. Since the non-law enforcement bureaus such as FMS will benefit from improved ADP audit operations, agreement was reached to transfer funds from these bureaus. Increased OIG effectiveness in auditing the various accounting, disbursement and revenue receipt systems that FMS is responsible for will help ensure the effectiveness and efficiency of these sophisticated systems.

ORIGINAL FUNDING REQUEST

Question. What was FMS' original funding request for Fiscal Year 1990, as submitted to the Department? How did it differ from the request submitted in the President's Budget?

Answer. The Financial Management Service's FY 1990 Departmental budget submission requested funding of $362.2 million and 2,445 direct FTE positions. The Service's FY 1990 President's Budget submission is $72.5 million and 283 FTE positions less than that amount. This difference is comprised of: a reduction of $45.3 million and 114 FTE positions from program initiatives; a decrease of $21.5 million in costs for maintaining the current level of operations; and an additional $2.2 million and 86 FTE positions in productivity savings and non-recurring costs. The remainder of the difference is due to the transfer to the Inspector General and the difference between FMS' FY 1989 President's Budget and the enacted FY 1989 appropriation.

FACILITIES MODERNIZATION

Question. Of the $1,683,000 requested in Fiscal Year 1990 for Facilities Modernization, what level of funding is requested for the Chicago Regional Financial Center renovation? You indicate that this is a GSA-owned building; why aren't the renovation costs being funded by the General Services Administration? Why, for example, is FMS purchasing a new freight elevator?

What level of funding is being requested in Fiscal Year 1990 for relocation of the Washington Financial Center? What level of funding is being requested for the Prince Georges Center Building?

Answer. $700,000 is being requested for the Chicago RFC renovation in FY 1990. GSA is funding a large portion of the overall renovation. However, GSA policy is to pay for items they consider to be standard, but GSA does not cover certain other costs that are necessary for FMS' operations, such as electrical service for systems furniture, certain essential equipment for computer rooms and computer security systems, and the relocation of equipment and staff.

Due to the nature of our RFC operations, FMS has unique facilities requirements which need special security attention. The location and accessibility of the current freight elevator is a security risk to our check production/mailout operations. FMS needs a new elevator which will be located to assure tight security, as well as provide maximum reliability for timely check delivery.

$983,000 is being requested for the Washington Financial Center relocation in FY 1990. No funds are being requested for the Prince Georges Center Building.

IRS TAX OFFSET PROGRAM

Question. Why are we not able to collect more overdue non-tax debt through the IRS Tax Offset Program?

Answer. The driving factors behind the volume of dollars collected through the IRS Tax Offset Program are threefold:

First, agencies' valid and enforceable debt records must match with the IRS Individual Master File (IMF). Over the three years of the program's existence, 89% of the agencies' debts referred were on IRS files.

Secondly, once agency delinquent debt records match the IMF, **the taxpayer must be eligible for a refund.** Over the first two years of the pilot program, 46% and 44.5% respectively of the "flagged" debtor accounts were eligible for a refund.

Thirdly, **in one tax year the program can only collect the amount of refund due to the debtor.** In 1986 the average offset refund was $568, in 1987 it was $473, and in 1988 it was $527.

Finally, prior to the extension of the program last year, only a limited number of agencies were authorized to participate because of the pilot nature of the program.

The IRS Tax Offset Program has a very high success rate. FMS is currently working to change regulations and allow an even greater number of agencies to participate in the program.

IMAGE PROCESSING

Question. What level of annual savings do you project as a result of image processing? You indicate that this system would dramatically reduce claim settlement time; by how much?

Answer. The driving force behind the implementation of image processing is the opportunity to improve service to the public by reducing claim settlement time. Coupled with the implementation of System 90, Image Processing would reduce claim settlement time by at least 80%, from the current 45 days to 7 days or less. Almost instantaneous telecommunication of check images would reduce the time it takes a claims processor to obtain a check image from days to seconds.

Image processing also provides significant benefits to all those involved in the claims process. This technology would save FMS approximately $300,000 annually by eliminating microfilm and tape purchase, transportation, and storage costs. Productivity savings and FTE reductions would be realized by customer agencies, and direct cash savings due to faster and more accurate reclamations of funds from banks would accrue to the Government. The several-fold increase in the quality of service FMS will provide to payment recipients is sure to reap benefits for the Government far beyond simple dollar savings.

A-76 SAVINGS

Question. The FY 1990 request includes a reduction of $1,654,000 and 86 FTE positions as a result of A-76 savings. What number of positions and amount of savings is associated with the FY 1989 Operational Upgrades initiative; what number of positions and amount of savings is associated with the implementation of ZIP+4 presorting in FY 1990; and what level of positions and amount of savings is associated with A-76 studies? What are these studies specifically?

Answer. The FY 1990 savings to be derived from implementing ZIP+4 presorting and those associated with A-76 studies were estimated by the Office of Management and Budget. These savings are broken down as follows: $550,000 from implementing ZIP+4 presorting; and $731,000 and 86 FTE positions from A-76 studies. FMS is currently identifying areas for A-76 review. FY 1990 productivity savings from the FY 1989 Operational Upgrades initiative are $373,000.

CASH MANAGEMENT SAVINGS

Question. What savings have you made in interest expense resulting from better cash management?

Answer. By Fiscal Year 1988, cumulative savings reached approximately $4.3 billion as a result of implementing improved cash management mechanisms and practices. These savings are listed by year below. Examples of the cash management mechanisms these savings represent include: Fedline, Treasury General Account Concentration Systems, Treasury Limited Depositary, Fedwire Deposit System, Lockbox System, as well as a variety of other cash management programs.

FY 1983 -- $ 0.2 billion
FY 1984 -- $ 0.3 billion
FY 1985 -- $ 0.7 billion
FY 1986 -- $ 1.1 billion
FY 1987 -- $ 1.0 billion
FY 1988 -- $ 1.0 billion

BUREAU OF THE PUBLIC DEBT

STATEMENT OF RICHARD L. GREGG, COMMISSIONER OF THE PUBLIC DEBT

ACCOMPANIED BY:

GERALD MURPHY, FISCAL ASSISTANT SECRETARY

DAVID M. NUMMY, ACTING ASSISTANT SECRETARY OF THE TREASURY FOR MANAGEMENT

INTRODUCTION OF WITNESS

Senator DECONCINI. Gentlemen, good morning.

Mr. GREGG. Good morning.

Senator DECONCINI. Commissioner Gregg, we are glad to have you here as our lead witness. Your full statement will be inserted in the record, if you would please summarize it for us.

INTRODUCTION

Mr. GREGG. Thank you. I appreciate this opportunity to discuss with you our fiscal year 1990 appropriation request for administering the public debt. As you are aware, the President's fiscal year 1990 budget proposes freezing at fiscal year 1989 levels the aggregate spending of domestic programs not directly associated with one of his five broad initiatives.

However, the President has emphasized that the freeze is flexible. We expect the final decisions about whether to increase or decrease specific programs will be determined through top-level deliberations and negotiations between the administration and Congress.

The request discussed today provides funds for both the Bureau of the Public Debt and the U.S. Savings Bonds Division. The latter is a separate organization responsible for promoting the sales of savings bonds and will be discussed separately.

The total request for "Administering the Public Debt" in fiscal year 1990 is $244.3 million. Of this total, the Bureau of the Public Debt request is $225.3 million and 1,967 FTE positions. This is a net increase of $25.5 million and 11 FTE positions over fiscal year 1989.

For the most part, the increase in funding is to fully reimburse the Federal Reserve for services performed as fiscal agents on behalf of the Bureau. The increase in FTE positions results primarily from our initiative to develop a new automated processing system for series E/EE savings bonds.

PROGRAM CHANGES

The fiscal year 1990 request contained in the January budget includes an increase of $23.4 million over fiscal year 1989 funding for

reimbursements to the Federal Reserve banks for their services. This increase is not the result of additional Federal Reserve operating costs for 1990. Rather, it would restore the $23.4 million congressional reduction to our fiscal year 1989 budget request.

Our 1990 request, if enacted, will return the Bureau to its traditional policy of fully reimbursing the Federal Reserve banks for the work that they do for us. Full reimbursement has been supported by the Bureau, the Treasury, and by OMB. I urge Congress to provide its support for this straightforward, pay-as-you-go approach provided in our 1990 budget.

PROGRAM INITIATIVES

Let me turn briefly to four important initiatives involving our savings bond program, a program that is in the process of significant change and improvement.

First, in 1990 we will start selling a new kind of savings bond, the education bond. These bonds will be tax free if certain income requirements are met and the bonds are used to pay for college expenses. We expect that in 1990 we will sell an additional 7 million savings bonds because of this new feature. We are requesting an increase of four FTE positions and $4.6 million to handle the additional savings bond workload.

Senator DECONCINI. Excuse me. What does that translate into a month, the 7 million bonds? What do you anticipate that will be?

Mr. GREGG. The dollar amount of bonds?

Senator DECONCINI. Can you estimate that, or not?

Mr. GREGG. I don't have that available right now.

Senator DECONCINI. I just wondered if you had an estimate on those. OK.

Mr. GREGG. I think that we have sold about 7 billion dollars' worth of bonds in 1988. If you increase that by 10 percent, we would sell 700 million dollars' worth of bonds, so it could be a sizable increase. These are very rough calculations.

Senator DECONCINI. Thank you.

Mr. GREGG. Second on our list is an initiative to develop a new savings bond processing system to maintain the 5.4 billion records of savings bonds. Our current system is more than 30 years old and needs to be replaced. We are requesting $1.1 million and 18 FTE positions to begin this project.

THE OHIO PROJECT

Our third major initiative, the Ohio project, tested the practicability of issuing savings bonds from a few regional offices rather than over the counter at thousands of financial institutions. A year-long pilot covering the entire State of Ohio shows that this regional delivery system will reduce costs to the Bureau, will accelerate receipt of funds into the Treasury, and will significantly reduce the operational burden for financial institutions. The new approach has been approved by the Treasury and will be implemented nationwide over the next few years.

Senator DECONCINI. That is the Ohio project?

Mr. GREGG. Yes, sir.

Senator DECONCINI. And was there any negative reaction from the public?

Mr. GREGG. There was some negative reaction. For the year-long pilot, we sold approximately 950,000 savings bonds in the State of Ohio, totaling nearly $200 million, and of those bonds that we sold, we received adverse comments from about 400 people.

Senator DECONCINI. Explain to me what it does and why.

Mr. GREGG. What we are doing is, right now you go into a bank or a savings and loan any place in the country, except for Ohio, and you can request a savings bond. After they type up the bond and take your money, then you can walk out with the savings bond. What we are trying to do is to regionalize that process.

In the Ohio project, the individual would still go to their local bank or savings and loan and submit an application, but instead of having the bond delivered to them right over the counter, the bond would be issued and mailed to them from a regional office, in this case the Pittsburgh Regional Office.

Senator DECONCINI. So they would get a receipt, in essence, from the bank, and they would get the bond within a week or some period of time?

Mr. GREGG. That's right. When we started the project, we said that all bonds would be delivered within 3 weeks.

Senator DECONCINI. Of course, they have to go out of State to get any other——

Mr. GREGG. I think we did see some of that, as a matter of fact, in Ohio, crossing over into West Virginia and other States.

Senator DECONCINI. Where they could actually get the physical bond that day. And of course the bond is dated the day they make the payment.

Mr. GREGG. That's right. It starts earning interest right away.

Senator DECONCINI. So it really makes no difference as far as the interest, whatsoever. Right?

Mr. GREGG. That's right. It starts earning interest from that date.

Senator DECONCINI. And it saves you having the bonds in every bank and having to keep track of all that.

Mr. GREGG. That's right. We spend probably between $12 and $15 million every year just on accounting for those bonds in 40,000 locations around the country, and that is one very big advantage.

Senator DECONCINI. Did you see any reduction in bond sales in Ohio as compared to the year before?

Mr. GREGG. Very marginal, if there was any. It's difficult to track exactly what the volume should be. We went back 2 or 3 years before we started the test and watched what the volumes would be. The sales volume came to slightly less than 5 percent of national sales, which is about what we experienced in Ohio during the test, maybe a slight reduction, but it was so close that I think it is hard to say that there really was any substantial reduction. We expect to save, once this is fully implemented nationwide, in the neighborhood of $15 million per year, plus it feeds into some other major initiatives that we have.

EXPANSION OF THE OHIO PROJECT

Senator DECONCINI. Do you plan on implementing that now?

Mr. GREGG. Yes, sir; the next step, in this fiscal year, includes the rest of the Cleveland Federal Reserve District, which includes the western portion of Pennsylvania, the eastern portion of Kentucky, and a small panhandle of West Virginia. Then in fiscal years 1990 and 1991, we will roll it out in the rest of the country.

Senator DECONCINI. Go ahead. Do you have anything further, sir?

EZ CLEAR PROJECT

Mr. GREGG. Finally, let me mention a project that we just recently made available to all our savings bond paying agents. This project, called EZ CLEAR, allows agents to use the Nation's automated check processing system to handle redeemed bonds. This is a great improvement for the agents and also for us. This project is expected to save $1 million in fiscal year 1990.

PREPARED STATEMENTS

Mr. Chairman, this concludes my brief remarks. Thank you for your consideration of our request. I will be glad to answer any questions that you and the members of the committee may have.

[The statements of Gerald Murphy and Richard L. Gregg follow:]

STATEMENT OF GERALD MURPHY

Mr. Chairman and Members of the Committee, I appreciate this opportunity to discuss with you the fiscal year 1990 resource requirements for the Bureau of the Public Debt. The Bureau's budget request for fiscal 1990 will enable the Bureau to meet its responsibilities for administering the public debt, while improving customer service and the cost effectiveness of the Public Debt programs.

As has been the case for the past few years, the Bureau's budget request reflects savings resulting from automation and management improvements. The bulk of this year's productivity savings are the result of implementing EZ Clear, our new savings bonds processing method using the Federal Reserve's check clearing system, and printing savings achieved by conversion from card to paper bonds.

Mr. Chairman, I would like to underscore the importance of full reimbursement to the Federal Reserve Banks. The Bureau's budget request recognizes the importance of supporting the principal-agent relationship with the Federal Reserve. The Bureau's ability to reimburse the Federal Reserve Banks for the work they do in support of Public Debt programs is the key to the productive partnership that has been built over many years. Mr. Richard L. Gregg, the Commissioner of the Public Debt, will provide more detailed information on the fiscal year 1990 request for the Bureau of the Public Debt.

STATEMENT OF RICHARD L. GREGG

INTRODUCTION

Mr. Chairman and members of the Committee, I appreciate this opportunity to discuss with you our fiscal year 1990 appropriation request for "Administering the Public Debt."

As you are aware, the President's fiscal year 1990 budget proposes freezing, at fiscal year 1989 levels, the aggregate spending of domestic programs not directly associated with one of his five broad initiatives. Although all of our programs are included in this category, the President has emphasized that the freeze is flexible, allowing some programs to increase while others are reduced.

We expect that final decisions about whether to increase or decrease specific programs within this freeze category will be determined through top level deliberations and negotiations between the Administration and Congress.

Today, we are prepared to discuss a number of initiatives, program reforms and/or reductions to 1989 spending levels that were presented in the budget submitted in January.

It should be emphasized that the President has not proposed that funds be appropriated for these particular adjustments. Therefore, our discussion must be viewed as providing the committee with information on "candidate" areas which could be increased or decreased within the context of the overall freeze.

The request discussed today provides funds for both the Bureau of the Public Debt and the U.S. Savings Bonds Division. The latter is a separate organization responsible for promoting the sale of savings bonds and will be discussed separately.

FISCAL YEAR 1990 APPROPRIATION REQUEST

The total request for "Administering the Public Debt" in fiscal year 1990 is $244.3 million. Of this total, the Bureau of the Public Debt request is $225.3 million and 1,967 FTE positions. This is a net increase of $25.5 million and 11 average positions over the fiscal year 1989 level.

For the most part, the increase in funding is to fully reimburse the Federal Reserve for services performed as fiscal agents on behalf of the Bureau. The increase in FTE positions results primarily from our initiative to develop a new automated processing system for Series E/EE savings bonds.

FEDERAL RESERVE BANK REQUIREMENTS

The fiscal year 1990 request contained in the January budget includes an increase of $23.4 million over our fiscal year 1989 funding for reimbursements to the Federal Reserve Banks in support of their activities as the Bureau's fiscal agents. This increase is not the result of additional Federal Reserve operating costs for 1990. Rather, it would restore the $23.4 million Congressional reduction to our fiscal 1989 budget request.

The policy and practice of the Bureau for many years has been to fully reimburse the Reserve Banks for the work that they do for us. The services that they provide are essential to our mission accomplishment and, in many cases, represent work that would otherwise have to be accomplished by Bureau personnel. The ability to reimburse the Banks for the costs incurred in direct support of this Bureau's programs is an important element of our principal-agent relationship.

Full reimbursement has been supported by the Bureau, the Treasury, and by the OMB. For over 70 years the Bureau has paid the Reserve Banks for their services. It has done so for three reasons. First, it's simply the right way to do business with another organization. Congress has supported this important principle within government by providing that governmental agencies pay other agencies for performing services. Second, full reimbursement reinforces and clarifies the Bureau's role as principal. This clarity enhances the decisionmaking process and improves the Bureau's effectiveness in administering the public debt. Third, all Bureau expenditures, including those incurred by Reserve Banks, should be subject to the appropriation process. This provides for the full review of proposed activities, and it ensures that the total cost of administering the public debt is accurately reported to Congress.

Our 1990 budget request provides sufficient funds to cover all Federal Reserve costs. I might note that reducing the Bureau's request for full reimbursement of fiscal agents does not result in savings to the Government. The Federal Reserve returns revenue generated through its activities to the General Fund after deducting its operating costs. I urge the Congress to provide its support for the straightforward, pay-as-you-go approach provided in our 1990 budget. Full funding will allow the Bureau to return to its traditional business relationship with the Reserve Banks.

SAVINGS BOND PROGRAM

Overall workload in the savings bond program is expected to increase by 6 percent over anticipated levels in fiscal year 1989. Projected workload for fiscal year 1990 is estimated at 171 million pieces as compared with 162 million pieces in fiscal 1989.

Continuing efforts to improve the efficiency and cost-effectiveness of the savings bond program are producing impressive results. Our EZ CLEAR project allows re-

deemed savings bonds to be forwarded by savings bond paying agents to their Federal Reserve Bank through the nation's automated check processing system. EZ CLEAR is a very favorable alternative to the time-consuming and labor-intensive processing system which has been used for more than 50 years. EZ CLEAR was successfully tested and became available to all financial institutions on October 1, 1988. This new processing approach has been enthusiastically supported by our paying agents. Already, nearly 40 percent of all redeemed savings bonds are being processed through EZ CLEAR. This project is expected to save $1 million in fiscal year 1990.

Another cost-saving initiative has been successfully tested in Ohio. This project tested the practicality of issuing savings bonds from regional locations rather than over-the-counter at every financial institution. Under this approach a purchase application for savings bonds is obtained and completed at local financial institutions, but the bonds are issued and mailed directly to the purchaser by a Federal Reserve Bank. The year-long pilot, which was initiated in October 1987, shows that the regional delivery system will reduce costs for the Bureau, accelerate the receipt of funds into the Treasury, and significantly reduce the operational burden for financial institutions. An important element of the pilot was to test the acceptance of this new delivery system by savings bond purchasers. Our experience in Ohio indicates that individuals will continue to buy bonds at approximately the same levels when bonds are available through a regional delivery system. The Treasury has recently approved the use of the new delivery system for savings bonds. The new approach will be implemented nationwide over the next few years.

PROGRAM CHANGES

We are requesting funding for a moderate increase in savings bond workload, largely associated with the new Education Savings Bond Program. As a result of recently enacted legislation, savings bonds purchased January 1, 1990 or thereafter may be redeemed tax free if certain income limitations are met and the proceeds are applied to the expenses of a college education. Four FTE positions and $4.6 million are needed to manage the additional workload and to pay our agents.

A number of system redesign initiatives are also part of the January request. The first is our Series E/EE savings bond automation initiative. The current system, based on a design that is over 30 years old, is costly to maintain and time consuming to operate. The redesign of this system will result in an improved processing and operational environment that will not only improve customer service, but will also build on the operational improvements from current projects such as the Ohio Project and EZ CLEAR. Our budget request includes $1.1 million and 18 FTE positions to begin this systems development project.

We are also undertaking the redesign of our State and Local Government Securities System. Currently, these securities are maintained in two systems, which are volume sensitive, labor intensive, and cumbersome. The system redesign will reduce vulnerability to changing market conditions and legislative requirements and improve accountability and reconciliation of funds and securities. The January budget included $329,000 for this redesign in fiscal year 1990.

Additionally, $537,000 was included to support our long range strategy of enhancing the Bureau's computer processing capacity to improve performance and reduce costs. This is part of a planned upgrade to our central computer which has been under way for several years.

Finally, as described previously, full funding for all services provided by Federal Reserve Banks would require $23.4 million above fiscal year 1989 appropriations.

Mr. Chairman, the Bureau's budget request included in the January budget supports our policy objectives and will enable us to meet our responsibilities. The amount requested will permit the Bureau to process anticipated workloads, to continue to improve service to investors, to undertake important systems improvements, and to fully reimburse the Federal Reserve Banks for their services. Thank you for consideration of our request. We will be glad to answer any questions that you and the members of your Committee may have.

FISCAL YEAR 1990 BUDGET REQUEST

Senator DECONCINI. Thank you, Mr. Gregg.

Your proposed budget is $25.6 million over the 1989 enacted level, as we figure it, for the activities of the Bureau of the Public Debt and the Savings Bond Division. All total, you are requesting

program increases of $29.9 million and 22 positions, plus an additional $6.4 million to maintain current levels. At the same time, you are anticipating a reduction of $10.5 million due to nonrecurring costs, productivity savings, program and pay reductions.

The bulk of the increase, the $23.4 million that you mentioned, is for reimbursement to the Federal Reserve banks for the performance of bureau services. In fiscal year 1989 the committee, as you so well know, reduced your appropriation by a similar amount for reimbursement to the Federal Reserve banks. Since the Federal Reserve banks can receive payment for their services by reducing their payments to the general Treasury, why are you requesting the increase once again? I think I know the answer, but why don't you put it on the record for us?

Mr. GREGG. You're right. If we are not able to fully pay them, they reduce the earnings that go back into Treasury. I think from my perspective it is important to reimburse the Federal Reserve banks because it is a business relationship that we have had over the last 70 years that has produced some very big benefits, I think, for the Bureau and for the Government.

On the positive side, I think the benefits that we have seen since 1980 are that we have had a period of very substantial increases in the public debt outstanding. As you know, we have experienced, within the Bureau, very stable funding levels and actually a decrease in FTE positions. I think that one of the primary reasons for that is the type of things that we have been able to do with the assistance of the Federal Reserve. I think the kind of relationship that we have with them is not wholly, but partly dependent on us being able to pay them for those services.

FEDERAL RESERVE BANK SERVICES

Senator DECONCINI. Well, have the banks refused to provide any necessary services to the Bureau as a result of the nonpayment?

Mr. GREGG. No; they haven't.

Senator DECONCINI. And do you anticipate they will?

Mr. GREGG. No; I don't think so.

Senator DECONCINI. Is it anything really more than goodwill?

Mr. GREGG. I think there is. I think that if I had a brother-in-law who was in the construction business, and I could persuade him to do some work on my house free of charge, I would probably get it done, but I'm not so sure I would have as much control over that as I would if I was actually paying him for those services and had a schedule laid out. I think that's kind of what it amounts to. We work very hard to make the relationship work.

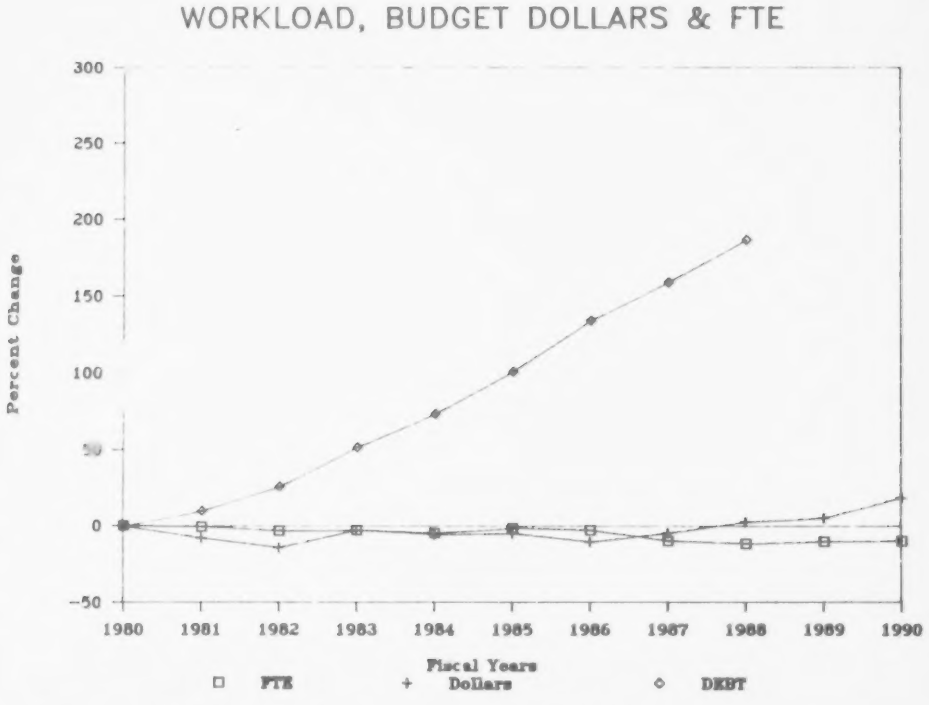
Senator DECONCINI. I know you do, and it isn't something we like to do. We are stuck here dollarwise, and it's an easy target, unfortunately for you, perhaps, and maybe for the Federal Reserve. I don't know exactly how to approach it when we don't have the money.

WORKLOAD DATA

Mr. GREGG. I would like to show you one chart here that shows our workload in terms of the debt outstanding. What this chart shows is a percentage change since 1980 and the green, which

shows the debt, steadily climbing over 200 percent since 1980, and the FTE positions actually declining since that time, and the dollars, a very modest increase. This data hasn't been discounted in present dollars. These are actual numbers running from 1980, so I think that is the positive side on us being able to pay the banks and maintain that good relationship. That is the point I would hope you remember.

[The chart follows:]



Senator DECONCINI. Just out of curiosity, do they mention that to you, the nonpayment, as a kind of a professional slap, or is it brought up seriously, you know, "Why can't you get this money to us?" What is the——

Mr. GREGG. It's important to them, especially important to the Federal Reserve Board. They feel under an obligation, going back to the Monetary Control Act, to try to recover their costs. They do that with banks and other financial institutions with which they do business, and I think they have that same attitude, to try to recover their costs.

Senator DECONCINI. So what do they do to offset this, when they don't get the funds?

FEDERAL RESERVE BANK SHORTFALL

Mr. GREGG. I think that first of all, if they have sufficient money, they can budget that within each of the Federal Reserve Districts. That is how it operates. When they don't have the money, I think it makes it more difficult for them to provide that kind of budget support to the individual Federal Reserve banks,

but when push comes to shove, I think that we are able to move ahead on our important projects. Basically what they do is to reduce the earnings that they would otherwise return to the Treasury.

Senator DECONCINI. So they deduct it out of the payments to Treasury. Is that what they really do?

Mr. GREGG. That's right.

Senator DECONCINI. It means that the Treasury gets $25 million less, so it is absorbed someplace else.

Mr. GREGG. Yes; in that respect, it is budget neutral. If you look at the overall amount of our appropriation and you look at the overall cost of running the Government, it's budget neutral.

Senator DECONCINI. It doesn't make too much difference. That's why it's easier for us.

OK, thank you, gentlemen. Thank you very much. I have some questions from Senator Byrd which I will submit to you, and from Senator Domenici, and a few that we will submit also. Thank you very much.

Mr. GREGG. Thank you.

Mr. MURPHY. Mr. Chairman?

Senator DECONCINI. Yes; sure, Mr. Murphy.

IMPACT ON DEFICIT

Mr. MURPHY. Let me just add on that last subject. As I recall, when Gramm-Rudman-Hollings was first passed, that the Federal Reserve indicated that they wanted to live with the spirit of Gramm-Rudman, and so they do have the same kinds of budgetary pressures that we do. Our not being able to fully reimburse them for all the work they do increases their expenses.

I understand the problem that you have with regard to the appropriations and obligational authority, but I would add that appropriating money for this purpose would not affect the deficit, which I think you know.

Senator DECONCINI. Yes; I do know that. Yes; it's a matter of our bookkeeping in the committee versus their bookkeeping on the deficit. I realize that. It just is an easy way out. We will look at it carefully to see if we can find some change. I don't want to make a guarantee, but I understand what you're saying.

Thank you.

Mr. MURPHY. Thank you.

SUBMITTED QUESTIONS

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR DECONCINI

Question: Do you think it may be wise to conduct some sort of public opinion survey on a national level before you fully implement this initiative?

Answer: We felt that the best information on the new regional delivery system would come from conducting a pilot to test the reaction from bond purchasers, financial institutions and to determine costs and savings. We conducted a very extensive pilot, lasting 1 year and including the entire State of Ohio, which constitutes 5 percent of our over-the-counter sales. Ohio was chosen because it has traditionally been considered a good barometer of national sales.

During the year-long pilot in Ohio we sold 950,000 savings bonds with a purchase price of approximately $195 million. The volume of bonds sold during the year was approximately the same level of bond sales as was recorded in Ohio immediately prior to the pilot. Therefore, based on this very extensive pilot it was concluded that this new regional delivery system should be implemented nationwide. There is a very significant part of the nationwide implementation plan devoted to informing and educating the public and financial institutions on the new sales process. I believe that this effort will help to assure public acceptance.

I might also add that our experience in a regional delivery approach is not limited to Ohio. A fair number of large commercial banks who serve as over-the-counter issuing agents have consolidated their issuing operations. While they continue to accept applications at all of their branches, the bonds are issued and mailed to their customers from an operations center.

Approximately 10 percent of over-the-counter bonds are issued in this manner. This has been occurring over the last 6 or 7 years and the Bureau has received virtually no complaints from bond purchasers.

Question: Do you plan to undertake an advertising campaign to fully educate the Public on the new procedures for bond issuance prior to implementation?

Answer: As part of the Ohio Project, steps were taken to ensure that the financial institutions and

the public were made fully aware of the process. This educational process was very effective, is essential to successful implementation, and will continue as the program is expanded nationwide. A response received from an informal survey shows that the financial institutions preferred the pilot program over the previous program and that their customers accepted the new delivery process.

Question: When do you expect to have this new procedure fully operational?

Answer: The pilot program was conducted October 1, 1987 through September 30, 1988, and the evaluation shows that the pilot was successful. The expansion of this process within the Cleveland Federal Reserve District will begin in the summer of 1989; besides Ohio, this area covers the western portion of Pennsylvania, eastern Kentucky, and a small portion of West Virginia. Other Federal Reserve Districts should begin implementing the regional delivery system in 1990, and the new system should be fully in place in 1992.

Question: What are the savings associated with this initiative?

Answer: The savings associated with this initiative are: improved cash management associated with a reduction in float, reduction of fees paid to issuing agents, reduction in program costs to the Bureau, and reduction in the number of agents issuing bonds. In addition, there is the centralization of the accounting for stock activity which will require fewer locations than the 24 locations that currently perform the function. We anticipate that dollar savings in our budget will not be realized until the project is well into implementation. We expect that costs associated with start-up will offset savings through a large part of the implementation period. When fully implemented, we expect the annual operational and cash management savings to exceed $12 million.

Question: What would happen if the Bureau of the Public Debt was required to accept an FY89 freeze level adjusted for inflation? What activities would you forego?

Answer: A large portion of the Bureau's budget is not discretionary. Over half of the budget is comprised of fixed payments to our agents and

others who process workload for the Bureau. These workloads result directly from the degree of public participation in the debt marketing process (i.e., buying Treasury securities and Savings Bonds) and cannot be controlled by the Bureau. We cannot ignore workload that exists or fail to service investors in United States Securities. We would look for savings whenever possible to try to manage at the reduced funding level but we could not forego the debt financing and service responsibilities of the Bureau.

Question: Your FY 1990 budget assumes productivity savings of $4.4 million and 10 positions. Can you tell me specifically how these savings will be achieved without reducing program requirements? Can these savings be realized if the Congress does not approve the funding for certain initiatives in FY 1990?

Answer: The majority of the savings anticipated in the 1990 budget are related to savings for the EZ CLEAR program, reduced printing requirements due to conversion from card bonds to paper bonds, and general increases in productivity. The 1990 budget included funding to support Public Debt's programs at anticipated levels. Any reduction in the 1990 budget request would cause unavoidable set backs for planned projects and reduce savings that would occur in future years.

Question: You also anticipated program reductions of $5.6 million and 7 FTEs due to workload reductions. Can you please explain how you anticipate these workloads can be reduced without affecting the delivery of services?

Answer: As part of the formulation of the FY 1990 budget, adjustments to savings bond workload and changes to savings bond per item costs were necessary. The current workload estimates are consistent with program projections and should not adversely affect overall services.

Question: This committee has shown a continued interest in the consolidation of the savings bond program and the Bureau of the Public Debt into the Parkersburg West Virginia facility. Over the years, significant progress has been made toward maximizing the use of the existing space and staff at this facility. What initiatives have been undertaken in FY

89 in pursuit of a work force shift to the Parkersburg facility?

What about for FY 90?

Answer: In Fiscal Year 1989, we have significantly increased the staffing of the Parkersburg facility. This was necessary to alleviate the use of overtime that was required by unplanned increases in savings bond workload. The Bureau continues to review all operational functions for determination of where the work can be performed most effectively.

As a part of the FY 1990 budget request, the E/EE Savings Bond Automation (SEAS) initiative is one of our highest priorities. This initiative will provide an additional 18 FTE for the Parkersburg site. In addition, we have requested four FTE to handle increased savings bond sales.

Question: You are requesting an increase of $4.6 million and 4 FTEs for anticipated workload increases due to higher savings bonds sales estimates in FY90. Your justification states that you expect to process 9 million more savings bonds in FY90 compared to FY89. You are attributing the largest increase to the sales of the new college bond.

Can you give me the details about the new college bond and why you expect such a sharp increase in its sales?

Answer: The Education Savings Bond will grant tax-advantaged status to interest earned on selected bonds issued after December 31, 1989 that are used to meet higher education expenses. Generally, a taxpayer who pays qualified higher education expenses during the taxable year will exclude the interest earned from the redemption of qualified education savings bonds from their gross income.

The projected increase in sales is based on the expectation that the tax advantage will generate significant public interest. Additionally, a modest increase in traditional Series E/EE growth is anticipated.

Question: How did you estimate the projected sales volume from these bonds?

Answer: It is estimated that the education bond program could generate additional sales of 10 million savings bonds during the first full year.

As the program commences in January 1990, it will be in effect for only part of the fiscal year.

These sales volumes are very difficult to estimate but given our recent growth in savings bond sales and the likelihood of substantial publicity for these tax-free bonds, we feel that 7 million additional bonds for FY 1990 is not unrealistic.

Question: You are also requesting an increase of $1.06 million and 18 positions for the system redesign of the Series E/EE Savings Bonds. Can you tell us why this redesign is necessary? What are the long term costs of this project and when do you expect to have it fully implemented?

Will there be any savings realized in the short term? If so, how much by year?

Answer: The current complex tape-oriented, batch system is over 30 years old and contains approximately 5.4 billion records. It is becoming more difficult and costly to operate and there is a growing risk that the system could fail. The Series E/EE Redesign, known as Project SEAS is the culmination of efforts to significantly improve service and reduce costs through the elimination of paper and microfilm records. The redesigned system will take advantage of automated information from the Ohio and EZ CLEAR Projects. The system will operate in an environment where all correspondence, transaction and registration data is automated. Data presented in this fashion will enable the configuration of master files and networks such that all related correspondence and transaction data will be available, via integrated work stations, for employees to perform "one stop" processing. In addition, SEAS will provide an expanded database for the derivation of program management information, increased controls over the capture, evaluation, and use of data, and enlarged Federal Reserve Bank interaction. Preliminary estimates place the cost of the project at $21 to $25 million dollars with an estimated benefit ratio (discounted) of 2.7 to 1 over the system life cycle.

Implementation will occur over the next 5 to 7 years.

At this point, the Bureau does not anticipate savings prior to full system implementation. However if possible, portions of the new system will be phased-in as they are completed. We are too early in the project to be able to predict implementation options.

QUESTIONS SUBMITTED BY SENATOR BYRD

Parkersburg, West Virginia Facility - Lease Renewal

Question: What is the latest status of the early renewal of the lease agreement of the Bureau of Public Debt facility in Parkersburg, West Virginia? Since last year's hearing, Assistant Treasury Secretary Meagher wrote to me and indicated that the Bureau of Public Debt is well pleased with the Parkersburg facility as indicated in the text of his letter to me of April 5, 1988 as follows:

Dear Senator Byrd:

This is in further response to your letter dated February 29, 1988, on behalf of Mr. James M. McCutcheon, Partner, Leased Housing Developers Company, concerning renegotiation of the lease on a building in Parkersburg, West Virginia, occupied by the Bureau of the Public Debt.

The Bureau is well pleased with Parkersburg as a location in which to conduct a major part of its business and is generally satisfied with the building, which accommodates more than 1,100 Public Debt employees. It has no plans to seek alternative space or another geographical location from which to conduct either United States Savings Bond or centralized computer operations. As noted in Mr. McCutcheon's correspondence, the current lease makes provision for 16 more years of occupancy by the government.

As the lease for the Parkersburg building is administered by GSA, and that agency is solely responsible for dealing with proposals of this kind, I have taken the liberty of forwarding your inquiry to Mr. Duncan L. Howard, Commissioner for Public Buildings, General Services Administration, with a request that he respond directly to you.

Thank you for your interest in this matter. The Department very much appreciates your considerable efforts on behalf of the Bureau of the Public Debt's activity in Parkersburg, West Virginia.

Sincerely,

John K. Meagher
Assistant Secretary
(Legislative
Affairs)

Answer: The Parkersburg facility continues to be a desirable location for conducting a major portion of the Bureau's business. We are generally pleased with the lessor's performance and have no plans to relocate the over 1,100 Public Debt employees.

The present lease on the Parkersburg office building expires in 1994. Exercising the two five year renewal options contained in provisions of the lease would insure occupancy of the property through 2004. So that GSA can act with confidence on the lease renewal, we have indicated to them that we plan to continue to use the Parkersburg facility.

Question: In addition, the General Services Administration, in response to my request, has been working with the Bureau of Public Debt to clarify the specific building improvements requested by the Bureau. Please provide, after consultation with the General Administration Services staff, an estimated timetable, including significant milestone events, leading to the early renewal of the lease this fiscal year, if possible. May I have your assurances that you will keep me fully informed on the progress of these negotiations?

Answer: As you indicate, the lease for the Parkersburg building is administered by the General Services Administration (GSA). On December 28, 1988 GSA met with the building owner's representative to clarify the owner's proposal and to discuss improvements and repairs that are needed. In a letter of February 9, 1989 to GSA, we expressed general satisfaction with the facility and our intention to remain in Parkersburg. We will

ask GSA to provide you with their timetable for renewal.

Parkersburg, West Virginia Facility - Staffing

In a February 7, 1987 letter to the Subcommittee Chairman in response to FY 1989 report language incorporated at my request, the Assistant Secretary of the Treasury reported on the Bureau of the Public Debt's staffing and overtime requirements at its facility in Parkersburg, West Virginia, including the fact that employment at the Parkersburg facility has increased 6 percent to 1,122 employees, from the 1987 level. I am pleased by the Assistant Secretary's positive response. The text of his letter is as follows:

Dear Mr. Chairman:

This is in response to Senate Committee Report 100-387 which requested the Treasury to report on the Bureau of the Public Debt's staffing and overtime requirements at its facility in Parkersburg, West Virginia.

In the report, the Committee recognized the progress that had already been made and urged the Bureau and the Department to keep voluntary overtime at reasonable levels, to minimize mandatory overtime, and to continue to evaluate opportunities to shift work to Parkersburg.

Since we last wrote the Committee on January 13, 1988, the previous high levels of overtime have been largely offset with additional full-time staff. Based on actual usage for the first quarter of FY 1989, the Bureau projects 57 percent less overtime in FY 1989 than in FY 1987 when the workload and overtime began to climb dramatically. The 1989 projection reflects overtime commensurate with a large operation like the Parkersburg facility. Employment at the Parkersburg facility has increased 6 percent to 1,122 employees, from the FY 1987 level.

Based on current workload projections, the Bureau has adequate resources for FY 1989. In planning the budget for FY 1990, the Bureau carefully evaluated its staffing needs in Parkersburg and has requested adequate resources.

With regard to shifting work from Washington, D.C. to Parkersburg, the Bureau continues to seek ways of making its operations more efficient, placing work at the locations where it can best be performed.

I want to assure you that we continue to share the Committee's concern for the Bureau's work force, both in Washington and Parkersburg. The Bureau's actions to increase staffing and reduce overtime, coupled with a careful and well-managed approach to the placement of

functions, demonstrate its commitment to making the best use of its work force. I feel that the Parkersburg situation is now stable and operating normally.

If I can be of further assistance, please let me know.

Sincerely,

John K. Meagher
Assistant Secretary
(Legislative Affairs)

Question: What more can be done to expand the workforce at Parkersburg in response to the intent of the Committee report that Washington-based functions be shifted to the Parkersburg facility? May I have your assurances that you will keep fully informed of developments in this area?

Answer: For a number of years, the Bureau has examined its operations to determine where our work could best be performed. In the past several years, we have increased staffing in Parkersburg to make better use of that facility and in some cases it has proven desirable and beneficial to shift work from Washington. We will continue to remain alert for situations in which our work can more effectively be accomplished in Parkersburg.

As a part of the fiscal year 1990 budget request, one of the Bureau's highest priorities is the E/EE Savings Bond Automation (SEAS) initiative. This request is to provide funding for an additional 18 FTE for the Parkersburg site. In addition, we are requesting four FTE in Parkersburg to handle increased savings bond sales. You have my assurance that we will keep you informed of developments in this area.

QUESTIONS SUBMITTED BY SENATOR DOMENICI

The Bureau's fiscal year 1990 request essentially contains funding increases for five major program changes: the Series E/EE Automation Project (+18 FTE positions and +$1,059,000), a workload increase as a result of the College Savings Bond (4 FTE positions and +$4,600,000); redesign of the State and Local Government Securities System (+$329,000); expansion of

the Bureau's Computer Processing Capacity (+$537,000); and full Federal Reserve Bank Reimbursement for services (+$23,410,000).

Question: What is the priority order of these funding increases requested for fiscal year 1990? What is the estimated total cost of each of the fiscal year 1990 automated data processing initiatives?

Answer: The following initiatives are provided in order of importance to the Bureau. Funding for these initiatives was given careful consideration based on current estimates and reflects minimum essential requirements of the Bureau to accomplish our mission.

1. Savings Bond Workload
   This is an ongoing operational cost.

2. FRB Reimbursement for Services Provided
   This is an ongoing operational cost.

3. Series E/EE Savings Bond Automation

   Initial estimates place the total cost of the Series E/EE Automated System (SEAS) project at $21 to $25 million. Implementation is expected to occur over the next 5 to 7 years. Approximately $105 million in cash management and operational savings are expected throughout the lifetime of the system.

4. State & Local Government Securities System

   This system will be developed jointly by the Federal Reserve Bank of Kansas City and the Bureau and is estimated to cost approximately $5 million. The new system is essential to improve controls and processing efficiency for State and Local Government Series securities. This is essential and supports the Bureau's responsibility for providing direct services to investors.

5. Expansion of Bureau's Computer Capacity

   This is an ongoing program to remain current in the area of data processing technology.

Question: The fiscal year 1990 request assumes savings of 5 FTE positions and $1.2 million as a result of Implementation of the Federal Reserve Check collection system to process paid bonds called "EZ CLEAR" being implemented by April of 1989. How have these savings been determined? Are any savings projected from this project in fiscal year 1989?

Answer: The savings in the fiscal year 1990 request consists of 5 FTE and $126,000 for personnel compensation and benefits, and $1,100,000 for Paying Agents Fees. The savings from the agent fees will result from a general decrease of four cents per item in the agent fee.

The Bureau's fiscal year 1989 Budget request also reflected savings from EZ Clear of approximately $965,000 and five FTE. We do not expect additional significant savings beyond fiscal year 1990.

Question: What is the status of the E/EE Redesign initiative? Could you expound a bit on your plans for implementation of this initiative?

Answer: The current savings bonds process consists of a tape-oriented batch system over 30 years old, that is cumbersome to operate and contains about 5.4 billion records. Project SEAS, as this new initiative is known, represents the culmination of efforts to significantly improve virtually all aspects of the savings bonds process and increase service through the elimination of paper and microfilm records. The redesigned system will take advantage of opportunities for improvement that were designed into the Ohio Project and the EZ CLEAR Project.

The SEAS project is extraordinarily complex. Very careful evaluation of all aspects of savings bonds processing is essential to identify requirements for the new system. This will be the first work to be undertaken. At this time we estimate that the project will require 5 to 7 years to complete with certain portions of the new system phasing in as they are completed. At this early stage I cannot say when the first parts will be completed.

Question: What has been the impact of dropping the lower denomination savings bonds on payroll savings plan sales?

Answer: The regulation dropping the $50 and $75 savings bond denominations for new payroll enrollees took effect on February 1, 1988. However, total sales of savings bonds are projected to increase to 100 million pieces in 1989 and 109 million pieces in 1990. Experience to date indicates a gradual increase in the average issue price of payroll sales (An indication that higher denomination bonds are being purchased). The elimination of the lower denomination for new payroll savings plan participants has had no significant adverse effect on the savings bonds program.

Question: Please explain why Treasury is eliminating the option of investors to receive savings bonds directly from financial institutions?

Answer: The mailing of "over-the-counter" bonds to investors is expected to produce direct and cash management savings in the administration of the public debt. Our regional delivery system will significantly streamline the process of issuing bonds for more than 40,000 financial institutions. This simplification will allow agents to continue to receive applications from their customers for the purchase of bonds and fully support the savings bonds program. Investors receive their bonds (which cannot be redeemed for six months) within three weeks and they begin earning interest from the purchase date. Certificates of purchase are immediately available for those individuals buying bonds as gifts.

Also, the regional delivery system provides us with a critical framework for future major systems enhancements and improvements in customer service.

SAVINGS BONDS DIVISION

QUESTIONS SUBMITTED BY SENATOR DECONCINI

OVERVIEW. The total FY 1990 budget request for the Savings Bonds Division is $19 million--an increase of $124,000 over the FY 1989 enacted level. You propose reductions of $517,000 and 8 positions due to productivity savings and program reductions and increases of $641,000 to maintain current levels. Your biggest increase is proposed for increased costs of outside contracts ($121,000). Your justification states this increase is necessary for marketing and promotional costs related to sales of savings bonds.

QUESTION. What is your total budget for outside contracts for FY 1990? I assume these costs are necessary to increase sales volume and educate the public on changes in procedures for purchase of the bonds. Is this correct?

ANSWER. The Division has budgeted $1,036,000 for outside contracts for FY 1990. Included in this amount is $673,000 to develop advertising materials which will be used as public service announcements by the electronic and print media, and $363,000 for the warehousing and distribution of promotional materials to the public and over 90,000 payroll savings companies and financial institutions that support the Savings Bonds Program.

You are correct that these contracts are essential to the promotion of our program and to educating the public about the features and benefits of savings bonds. That would be especially important in FY 1990 because of the need to apprise the public about the new Education Bond benefits which take effect on January 1, 1990. Under certain circumstances, they will permit the interest on savings bonds to be free of Federal taxes when used to pay for the costs of higher education.

QUESTION. Have you conducted any studies to determine what impact your promotional activities may have on increased sales volume?

ANSWER. It is difficult to identify specifically what effect a particular promotional activity may have on the volume of savings bonds sales. Certainly, the features of the product itself, and

especially the competitive interest rates of bonds, have a great deal of effect on sales volume and on public appreciation of the value of bonds as a saving and investment instrument. Just as certainly, however, efforts at making those features known are responsible as well for the increases in sales we have experienced. An attractive product alone will not sell if the public remains unaware of it. All the efforts of the Division are directed toward disseminating factual information about savings bonds and allowing individuals to make an informed decision about the importance of saving for their future.

QUESTION. Do you have any thoughts on how your marketing strategies could be improved if funding was not a problem?

ANSWER. Traditional reliance on volunteers and unpaid media support through public service announcements has resulted in a highly successful and cost effective program. The total value of bonds outstanding now exceeds $113 billion, the highest in our history. If funding were not a problem, we might experiment with the use of paid advertising since it would allow greater control over the placement of ads during prime time hours. However, such advertising is very expensive and would require substantially more funding than would be possible or even appropriate during this period of severe budget restrictions.

QUESTION. The proposed reductions from productivity savings are expected to be $171,000 and 6 FTEs in FY 1990. Can these savings realistically be realized without affecting program requirements?

ANSWER. The Division expects productivity savings of 1 FTE position and $171,000 in FY 1990. These savings will result from improvements to our Management Information System and will not adversely affect program requirements. That system will help reduce paperwork and improve communication between headquarters and field offices primarily through the use of electronic mail. The system also provides for the rapid transmission of data to keep management abreast of the status of field sales activities.

QUESTION. Your justification states that you generated $7.3 billion in savings bonds sales in FY 1988 and that you expect to increase those sales to $8.3 billion in FY 1990. First of all, I

congratulate you on your successes in the increase of sales. Secondly, can you tell me what your projected sales volume will be for FY 1989?

ANSWER. We appreciate your compliment on our sales record. Our goal for FY 1989 is $8.0 billion.

QUESTIONS SUBMITTED BY SENATOR DOMENICI

QUESTION. The fiscal year 1990 justification materials include a table showing fiscal year 1988 savings bonds dollar sales and estimated sales for fiscal years 1989 and 1990 from promotional efforts. Although there has been a 3.8 percent increase from last year in the FY 1990 sales estimate, sales projections for fiscal year 1990 are still below the fiscal year 1989 estimate. Why is this the case, especially since a significant increase in dollar sales is projected between fiscal years 1988 and 1989?

Also, can you please explain the difference between these dollar sales estimates and the statement contained in the Bureau of Public Debt's justification which projects $9 million more in savings bonds sales in fiscal year 1990 than in fiscal year 1989, $7 million of which is attributable to the growth in sales foreseen due to the enactment of the college bond.

ANSWER. The question as presented inadvertently interpreted the BPD figures as dollar sales when in fact the reference should be to the number of bonds ("pieces") that will be sold: 9 million pieces in FY 1990, 7 million pieces of which would result from new education bond sales.

In terms of dollar sales, the Savings Bonds Division is projecting dollar sales of $8.0 billion in fiscal year 1989 and $8.3 billion in fiscal year 1990. This is an increase of $0.3 billion in dollar sales from the fiscal year 1989 projection. The $8.0 billion is a revised estimate from the original projection of $8.5 billion shown in the FY 1989 budget submission. These original estimates were revised downward because FY 1988 sales were 6.8% lower than initially projected.

QUESTION. Are any promotional efforts planned to boost sales of the new college bond?

ANSWER. The Division is developing an information plan and the initial promotional materials, in coordination with BPD and IRS, to inform consumers and the media about the new tax-exempt eligibility of bond interest when used for educational purposes. In FY 1989, a fact sheet will be prepared for general distribution and fourth quarter public service advertising materials -- print and broadcast -- will promote the education bond. Also, all payroll savings literature developed for use in FY 1990 campaigns will include detailed information on the education bond program.

QUESTION: How are volunteers used to promote the sale of savings bonds?

ANSWER. Each year over 500,000 Americans across the country volunteer their time and services to the Savings Bonds Program by directly participating in annual bond sales campaigns. They come from every walk of life, and include employees from over 46,000 company units that offer Payroll Savings Plans, prominent leaders from business, banking, labor, State and local governments, the media, and civic and fraternal organizations. This vast but "hidden" component of the program plays a crucial role in the success of the sales campaigns by developing and distributing promotional brochures, posters, ordering forms, and other materials, conducting kickoff meetings and other media events, and performing person-to-person canvassing. Their efforts are led by the 50 members of the U.S. Savings Bonds Volunteer Committee comprised of CEO's and top leaders of the Nation's corporations, government, labor, and educational institutions.

QUESTION. The fiscal year 1990 request includes $171,000 in savings and a reduction of 1 FTE position from the 1989 implementation of the Management Information System. How is the system increasing the Division's productivity?

ANSWER. The Management Information System has reduced paperwork and improved communication between headquarters and the field offices through the use of electronic mail. The system also provides for rapid transmission of data to keep management abreast of the status of field sales activities.

QUESTION: The fiscal year 1990 request proposes a program reduction of 7 FTE positions and $235,000. I note that this reduction in positions will be made in the sales operation activity. What impact will this have on your sales promotion efforts?

ANSWER: The positions are shown as reductions in Sales activity because most of the positions in the Division are in the Sales operation, which includes clerical and support, as well as promotional staff. The reductions, however, will be taken as much as possible in clerical and support staff rather than in promotional staff. We expect to minimize the impact of the reductions by taking as many as possible through attrition.

U.S. MINT

STATEMENT OF DONNA POPE, DIRECTOR OF THE MINT

ACCOMPANIED BY:

EUGENE H. ESSNER, DEPUTY DIRECTOR OF THE MINT

DONALD E. VOGT, ACTING BUDGET OFFICER

DAVID M. NUMMY, ACTING ASSISTANT SECRETARY FOR MANAGEMENT

INTRODUCTION OF WITNESS

Senator DECONCINI. The final panel this morning is the U.S. Mint, and our lead witness is Mrs. Donna Pope, Director of the mint. Mrs. Pope, welcome once again.

Mrs. POPE. Thank you, Mr. Chairman.

Senator DECONCINI. Glad to have you here. You may proceed to summarize your statement, please.

Mrs. POPE. Good morning, Mr. Chairman. To my left is Gene Essner, Deputy Director of the mint, and to my right is Don Vogt, the Acting Budget Officer for the mint.

SUMMARY

In an effort to be briefer than I was last year, I will summarize my statement and start with a very brief recap of 1988. We produced 14.7 billion coins for our domestic circulation, which resulted in seigniorage to the Federal Government of $468 million. According to an estimate that was done some years ago by the Comptroller of the Treasury, he calculated that every $100 million of seigniorage that was turned over saved $5.7 million in interest payments on money that the Government borrows. That means that $468 million in seigniorage really relates to about $25 million in savings at the interest rate that he used at that time. I think it would be higher now at today's interest rates.

Total numismatic and bullion profits to the Federal Government were $118 million in 1988. That was in addition to the $22 million in surcharges that we turned over to the U.S. Olympic Committee and the $49 million that we turned over to the Defense Logistics Agency strategic stockpile because of using silver from the stockpile for our silver coinage. We think that is not too bad for what some people call a small change operation.

FISCAL YEAR 1990 BUDGET

The mint's 1990 budget request is for $50,735,000 and 888 average positions. This will allow the mint to produce 19.5 billion coins and will satisfy the demand requirements of 18.1 billion coins. We estimate our contribution to the Treasury for fiscal year 1990 operations to be at about $623 million, $533 million of which will be the

seigniorage on domestic coins, $86 million from the sale of numismatic items, and $4 million from the sale of American Eagle uncirculated gold and silver bullion coins. We also estimate that we will be turning over approximately $50 million to the strategic stockpile.

The net budget increase of approximately $3.7 million is primarily for increased coin production, asbestos removal, equipment replacement, building improvements, and mandatory cost-of-living increases. We are requesting $1.3 million in appropriated money for an asbestos abatement program at our various mint facilities. The program started in 1987. The total effort is estimated at the present time to cost about $7.1 million, about $5 million of which are appropriated funds and the remainder, close to $2 million, coming from reimbursable funds.

Our research and development program was started in 1986 in order to enhance our productivity. The chairman complimented us last year—and those involved remember that, as well as the Director remembering and appreciating it. There are no new R&D projects proposed for fiscal year 1990 and we are not asking for any additional R&D money in fiscal year 1990. We are continuing work on R&D projects that have already begun. One of those projects is the new coin press feed system for our older—well, for all of our Bliss presses, actually.

I must tell you, because I am so pleased, and because I listened to all the previous testimony giving examples of productivity enhancement, that it looks as though the new coin press feed system will enhance our press capability by 25 percent, which I think is pretty darn good.

Our request is for 2,145 FTE's, as I said, 888 for appropriated activities and 1,257 for reimbursable activities, which is a reduction of 13 appropriated FTE's and 43 reimbursable FTE's from the fiscal year 1989 levels.

The Olympic Coin Program will be completed this year. The marketing of the Bicentennial of the Congress Program will start this year and end in fiscal year 1990, and then the Eisenhower Commemorative Coin Program begins in fiscal year 1990. Legislation will be proposed for a public enterprise fund to fund numismatic and bullion coin operations for the U.S. Mint, beginning in fiscal year 1990.

PREPARED STATEMENT

I would be happy to answer your questions.

[The statement follows:]

STATEMENT OF DONNA POPE

Mr. Chairman and members of the committee, it is my pleasure to present for your consideration the fiscal year 1990 budget request for the United States Mint.

As you are aware, the President's fiscal year 1990 budget proposes freezing, at fiscal year 1989 levels, the aggregate spending of domestic programs not directly associated with one of his five broad initiatives. Although our programs are included in the aggregate domestic discretionary spending category, the President has emphasized that the freeze is flexible, allowing some programs to increase while others are reduced.

We expect that final decisions about whether to increase or decrease specific programs within this freeze category will be determined through top level deliberations and negotiations between the administration and Congress.

Today, I am prepared to discuss a number of initiatives, that were presented in the budget submitted in January.

FISCAL YEARS 1988–89 SUCCESSES

Before I summarize our fiscal year 1990 request and discuss major activities for fiscal year 1990, I would like to highlight a few fiscal year 1988/1989 successes:

—We produced 14.7 billion coins for domestic circulation in fiscal year 1988. This resulted in seigniorage to the Federal Government of $468 million.

—The United States Olympic Coin Program has raised over $22 million in surcharges for the United States Olympic Committee. The silver for the Olympic Program comes from the strategic stockpile and the profit to the Defense Logistics Agency (DLA) stockpile is $6 million on silver.

—The American Eagle Gold Bullion Program continues into its third year of operation. During fiscal year 1988 and fiscal year 1989 to date, we have sold over $715 million worth of gold on approximately 1.1 million ounces of gold in bullion uncirculated coins and approximately 383,000 ounces of gold in proof coins. Profits for this period on the American Eagle uncirculated program are approximately $3.4 million which includes the profit on the repurchase of gold originally borrowed from Treasury reserves. Profits for this period on the American Eagle Gold Proof Program are approximately $32.7 million.

—The American Eagle Silver Bullion Program also continues into its third year with fiscal year 1988 and fiscal year 1989 sales to date exceeding $114 million. We have sold over 10.8 million ounces of silver in bullion uncirculated coins and 1.5 million ounces of silver in proof coins. Total profits for fiscal year 1988 and fiscal year 1989 to date for both the American Eagle uncirculated and proof programs are approximately $16.5 million. The profit on the sale of this silver, which is the difference between market value and Treasury's book value, is approximately $60 million. This profit goes to the Defense Logistics Agency.

—Profit to date on the sale of 1988 dated proof and uncirculated sets has amounted to approximately $19 million.

—Our research and development projects continue to show productive gains, resulting in further savings to the Federal Government.

FISCAL YEAR 1990 BUDGET REQUEST

The mint's fiscal year 1990 budget request for salaries and expenses is $50.735 million and 888 average positions.

This budget request will allow the mint to produce 19.5 billion coins. This production will satisfy projected demand requirements of 18.1 billion coins and allow inventories which have been very low to increase to a level that ensures sufficient coinage to meet fluctuations in demand.

Our contribution to the Treasury for fiscal year 1990 operations is estimated at $623 million; $533 million of which will be seigniorage on domestic coins, $86 million will be from the sale of numismatic items which include the American Eagle proof coins, and $4 million from the sale of American Eagle uncirculated gold and silver bullion coins.

The mint's fiscal year 1990 net budget increase of approximately $3.7 million is primarily composed of: $1.5 million to increase coin production from 18.0 to 19.5 billion coins; $0.4 million for asbestos removal; $2.1 million for equipment replacement and building improvements; and, $1.7 million for mandatory cost of living increases. These increases are offset by reductions totalling $2.0 million for non-recurring costs, productivity savings, and savings resulting from A–76 studies.

ASBESTOS REMOVAL

The fiscal year 1990 budget requests $1.3 million in appropriated funds for the Asbestos Abatement Program at the various mint facilities. The program began in fiscal year 1987 with the awarding of a contract to assess the asbestos situation in Denver and to engineer an abatement plan. The total asbestos abatement effort throughout the mint, which is projected to be completed by the end of fiscal year 1993, is estimated to cost $7.1 million. Of this amount, $5.2 million would be funded by appropriations and $1.9 million would be funded by reimbursable funds.

RESEARCH AND DEVELOPMENT PROJECTS

The Research and Development Program was developed in fiscal year 1986 in order to enhance productivity of production equipment and processes. The funds for this activity remain available until expended. Since there are no new projects planned in fiscal year 1990, the mint is not requesting additional funds. Work continues on projects that have been developed. The coin press feed system project was developed to improve coin press production. Within the next month, the mint expects to contract for the purchase of an additional 50 coin press feed units. Ten units have already been installed and an additional 50 units are planned for purchase next year. The mint will realize yearly savings of 19 FTEs and about $700,000. Also, we expect to complete the contract for an additional robotics system for count, bag and stack operations by April 1989. The first system will be used for penny operations, while the second system will handle all denominations.

EQUIPMENT ACQUISITION

Our equipment acquisition plan includes funds for the replacement of worn-out, obsolete equipment. Our request of $3.4 million will enable us to purchase items such as coin presses, a blanking press, counting machines and industrial trucks.

PERSONNEL

Our budget request for fiscal year 1990 is 2,145 FTEs: 888 for appropriated activities; and 1,257 for reimbursable activities. This is a reduction of 13 appropriated FTEs and 43 reimbursable FTEs from our fiscal year 1989 levels. Our request for appropriated FTEs for fiscal year 1990 includes an increase in production personnel to produce an additional 1.5 billion coins. This increase will be more than offset by proposed reductions in the police force following an A–76 study which identifies ways of making the force more efficient or indicates that it should be replaced by private security guards through contracting out procedures.

RECURRING REIMBURSABLE PROGRAMS

The mint's recurring reimbursable programs for fiscal year 1990 will have as their base the annual proof coin sets, annual uncirculated coin sets, congressionally authorized medals, and the American Eagle gold and silver bullion programs. All production operations and sales activities related to these programs will be financed from reimbursable funds.

EXISTING COMMEMORATIVE AND NEWLY LEGISLATED COIN PROGRAMS

The Olympic Coin Program will be completed during fiscal year 1989. The Bicentennial of the Congress Program, which begins in fiscal year 1989 and ends in fiscal year 1990, authorizes the minting of five dollar gold, one dollar silver, and half dollar clad coins in proof and uncirculated condition. The Eisenhower Commemorative Coin Program begins in fiscal year 1990 and authorizes the minting of one dollar silver coins in proof and uncirculated condition.

PUBLIC ENTERPRISE FUND

Legislation is being proposed for a public enterprise fund to finance numismatic and bullion coin operations for the United States Mint beginning with fiscal year 1990.

The mint would retain profits from fiscal year 1989 reimbursable programs to support start-up operations. During fiscal year 1990 and thereafter, sales proceeds would be deposited into the revolving fund. Operating and capital expenditures would be charged against the fund. At year end, the net profits resulting from all numismatic and bullion programs would be deposited into the general fund of the Treasury, with the exception of the necessary funding to be retained to finance necessary capital acquisitions and start-up operations for the subsequent fiscal year. The mint would be required to submit business-like statements to the Congress in support of the Public Enterprise Fund. Full implementation of the public enterprise concept would enable the mint to be more responsive to changes in the public's demand for numismatic and bullion coins and would permit the mint to operate existing programs and newly legislated commemorative programs in a more business-like fashion.

SUMMARY

In summary, the mint is requesting for fiscal year 1990 an appropriated salaries and expenses budget of $50.735 million that will provide for: (1) expected coin demand; (2) continuation of the Asbestos Removal Program; and (3) replacement of worn-out and obsolete equipment.

I sincerely appreciate the support that this committee has given the United States Mint programs in the past and look forward to working with you.

This concludes my prepared remarks. I will be happy to answer any questions you may have.

BIOGRAPHICAL SKETCH

DONALD EDWARD VOGT

Donald Edward Vogt has served as the Budget Officer of the U.S. Mint since March 1987. Having been with the Mint since 1972, he also has served in other financial positions as cost accountant and Chief of the Accounting Systems Staff.

Mr. Vogt was born February 7, 1945 in Alexandria, Virginia. After serving 2 years of active duty with the United States Naval Reserve, he joined the accounting staff of the Washington Gas Light Company in 1970. He received a Bachelor of Commercial Science degree from Benjamin Franklin University in 1971.

He is married to the former Deborah Stenstrom. They have five children and reside in Dumfries, Virginia.

PUBLIC ENTERPRISE FUND

Senator DECONCINI. When will that legislation be submitted? Do you have any idea?

Mrs. POPE. Well, it's in the process of moving through the Treasury Department, with legal counsel looking over it presently.

Senator DECONCINI. Do you think that is going to happen in the next few months, that we will see some legislation proposed?

Mrs. POPE. I hope so. I also am looking forward to the form in which it appears.

Senator DECONCINI. Do they consult with you on that?

Mrs. POPE. Yes.

ASBESTOS REMOVAL

Senator DECONCINI. They do? When will the asbestos renovation be completed? You mentioned that earlier.

Mrs. POPE. Yes; in all of the facilities? If all goes according to schedule, in 1993. Of course we have had a little hitch already.

Senator DECONCINI. Is that 1993?

Mr. ESSNER. I believe it's 1993.

Senator DECONCINI. That's good. Thank you.

COIN INVENTORY LEVEL

I know there has been a considerable concern about the mint's ability to keep coin production ahead of demand. In your view, what should be the optimum ratio of production versus demand?

Mrs. POPE. Well, it has always been——

Senator DECONCINI. Excuse me. You had estimated 18 billion coins and you made 17.5. Don't take this as criticism. That's not bad when you're talking about billions, but yet you were not able to get there, and now you are going to estimate 19.5 billion for 1990. I just wonder what is the optimum ratio? Is 500 million short, is that an optimum ratio?

Mrs. POPE. Well, we have said for many years that, all things being equal, without a great surge in coin demand, that we should be holding an inventory of between 4 and——

Senator DECONCINI. Yes; excuse me. You produced 18 and the demand was 17.5. I misquoted that. What is the ratio, in your judgment, that you need? Is that about it?

Mrs. POPE. I'm not sure I understand the question.

Senator DECONCINI. Well, you estimated the production of 18 billion coins and the demand was 17.5.

Mrs. POPE. It really depends on the situation. If our inventories are climbing because we did not project demand accurately a year and a half in advance, then we can produce less than what we think the demand is going to be and draw down our inventories. If the reverse is——

Senator DECONCINI. Well, your justification states that you plan to increase your coin production budget by $1.5 million——

Mrs. POPE. That's correct. That's because——

Senator DECONCINI [continuing]. And 56 average positions, to enable the mint to produce an estimated 19.5 billion. So I guess my question is, I know there has been considerable concern about the ability to keep coin production ahead of demand. That's what you want to do, right?

Mrs. POPE. Yes.

Senator DECONCINI. And I guess in many instances you have been able to accomplish that, but in your view, what should be the optimum ratio of production versus demand, or do you look at it that way?

Mrs. POPE. No.

Senator DECONCINI. You don't?

Mrs. POPE. No; we don't look at it that way.

Senator DECONCINI. What do you look at? Whatever the demand is, you try to meet?

Mrs. POPE. Yes; and maintain sufficient inventory. However——

Senator DECONCINI. Yes; and what is a sufficient inventory?

Mrs. POPE. Well, we have stated it in different ways. Between 4.5 to 6.5 billion coins in inventory, which at the present rate would be about a 3- to 5-month inventory, bearing in mind that it fluctuates by seasons and by denominations. We might look as though we have plenty of inventory but be running short on pennies because a lot of pennies are being used, or dimes.

Our inventories decreased this last year; demand picked up suddenly—it had been flat for 3 or 4 years. The last year and a half our inventories became dangerously low, down to about 2.5 billion coins. That is one of the reasons why we want to make more coins than we feel the demand is, to build the inventories somewhat.

Senator DECONCINI. What is the number you need, then?

Mrs. POPE. Actually, what we do is, we project the best we can what we think the demand will be using a very complex formula. The four basic factors considered are changes in inflation, changes in the sale of nondurable goods, attrition, and changes in population. However, if OMB gives us an inflation rate a year and a half prior to the actual year of usage that does not turn out to be the actual inflation rate, then of course we are off in our projections, so it is not an exact science.

Senator DECONCINI. What is the optimum inventory that you think you should have, in numbers of coins?

Mrs. POPE. At the present time, between 4.5 and 6.5 billion coins.

Senator DECONCINI. And you were down to 2.5?

Mrs. POPE. That's correct.

PROPOSED LEGISLATION

Senator DECONCINI. I see. Going back to this Enterprise Fund legislation that is going to be submitted, which is working its way through legal counsel, is it going to address the certain regulations which make it difficult for the U.S. Mint to compete with other institutions like the Royal Canadian Mint? Will it help at all competitively?

Mrs. POPE. Mr. Chairman, you are my hero for asking that question. Hopefully the form in which the legislation is enacted will do precisely that.

Senator DECONCINI. What needs to be done to accomplish that? Can you explain that to me?

Mrs. POPE. Well, probably more than a public enterprise fund for the numismatic side of our operation, but it is at least a good beginning. I think you have asked the last 2 years, if the mint makes all this money, why do I have to keep asking you for an appropriated amount?

I think that is a very good question. The creation of a public enterprise fund is a start toward recognizing the mint as a commercial enterprise, and I would like, if you will bear with me just for a minute, to say this once on the record and get it off my chest, because I have been wanting to do it for 7¾ years as mint Director.

Senator DECONCINI. I am glad to relieve you.

Mrs. POPE. Thank you very much. Congress continues to enact commemorative coin programs that collectors enjoy, about once a year. We make money on them. It is nice for the Treasury Department, but we are also often measured against the other major marketing mints of the world—the British Royal Mint, the Canadian Royal Mint, the Perth Mint, which is the Western Australian Mint, and, to a lesser degree, the Mexican Mint.

All those mints are quasi-governmental mints. They are not under the same kinds of rules and regulations as the U.S. Mint. We are trying to compete head-to-head in the worldwide marketplace with our feet tied together, so hopefully the form in which the public enterprise fund is enacted will relieve some of that.

Senator DECONCINI. So you are looking for that to untie your feet, really?

Mrs. POPE. To a degree.

Senator DECONCINI. Yes; to a degree.

Mrs. POPE. The other mints are also free on their domestic coinage side as well, and can have long-term equipment replacement and improvement plans.

Senator DECONCINI. So you think at a minimum this is going to make you somewhat more competitive, if not——

Mrs. POPE. On the numismatic side, yes, and the bullion side.

SUBMITTED QUESTIONS

Senator DECONCINI. Thank you very much. We will submit to you any other questions we might have.

Mrs. POPE. Thank you very much.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR DECONCINI

Senator DeConcini. Your FY 90 budget proposes an increase of $3.735 million and a reduction of 13 FTEs from the FY 89 enacted level of $47 million. You are proposing program increases of $4.2 million and another $1.7 million to maintain current levels. Reductions from the FY 89 base total $2.2 million and 8 FTEs due to nonrecurring costs and productivity savings. The largest increase, $3.4 million, is for the purchase of coin presses and other equipment to replace those that are obsolete. In looking at your white sheets, however, I just see $1.9 million identified for the replacement of equipment. Can you explain this discrepancy and tell me specifically what equipment you plan to purchase in FY 90 with the cost of each?

Mrs. Pope. The white sheets only indicate the amount of the increase requested for equipment replacement over the FY 89 base level. The FY 89 equipment budget was $1.5 million with an increase of $1.9 million for a total of $3.4 million. The following is a list of planned equipment purchases in FY 90 and their associated cost:

High speed coining presses	$2,000,000
High speed blanking press	300,000
Coordinate measuring machine	90,000
Interferometer for die topology	15,000
Portable crane system	3,000
Micro hardness tester	8,000
Sizer bowls - quick release	60,000
Carbide blanking dies	60,000
CPZ blank feeding system	55,000
Blanking press feeders	45,000
8,000 lb. forklift	40,000
Quick change setup for blanking press	40,000
Toolmaker lathes	40,000
Die numbering machine	30,000
Blanking press sound enclosure mode	30,000
Count machines	27,000
High lift platform truck	25,000
Advanced PC for engineering use	25,000
Blanking die	25,000
Upset mill	23,500
Ventilation equip. for annealing furnace	20,000
Low lift platform truck	20,000
Drive units for coin presses	12,000
Center drill machine	11,000
Digital speed indicators	10,000
Miscellaneous production equipment	36,500
Security equipment	112,000
ADP equipment	188,000
Office furniture and equipment	90,000
Total	$3,441,000

Senator DeConcini. Is there a shortage of any one coin denomination versus another? If so, please explain this phenomenon.

Mrs. Pope. There is no coin shortage in any denomination. There are times when demand for a particular denomination will increase over that which was anticipated. When this occurs, we have been able to compensate by adjusting our production schedules accordingly and/or by drawing down on existing inventories. Although none of these changes in demand for a given denomination have created any coin shortages, the build-up of our coin inventories is intended to provide additional insurance that a sudden change in demand will not create a need for coins that cannot be met.

Senator DeConcini. Your justification indicates that you intend to propose a reprogramming of $2.7 million from benefits, asbestos removal and equipment to pay for salaries and increased coin production. Which asbestos removal project do you plan to delay in FY 89?

Mrs. Pope. The asbestos removal efforts at the Denver Mint were suspended in early FY 89 when a court ordered injunction enjoined the Mint from proceeding with a contract previously awarded to LVI Environmental, Inc. in late FY 88. A Comptroller General ruling has permitted the Mint to use those FY 88 funds for a new contract in FY 89. Due to the delay in the Mint's overall efforts for asbestos removal, approximately $1.6 million of asbestos funding in FY 89 became available for reprogramming to produce additional coins.

Senator DeConcini. Your FY 90 budget proposes a $665,000 reduction in research and development activities and your justification states that no new projects are planned. If funds were no object, what would be your number one research priority and what would it cost?

Mrs. Pope. Research and development (R&D) projects are continuing during FY 90. Manpower has been assigned so that progress and productivity improvements will continue. Active projects during FY 90 will include: Improved Coin Press Feed System; Count, Bag and Stack System; Automated Die Polishing; Modeling of Metal Flow in Coining; Blank/Coin Screening Device; Automated Packaging of Proof Coin Sets; and Blank/Coin Lubrication.

One area we are particularly interested in is laser scanning of coins for quality control. Because state of the art computer technology does not currently exist at an acceptable cost, we must wait for further developments. If funds were no object, we would accelerate R&D projects that have already been started, particularly the improved Coin Press Feed System and the Count, Bag and Stack System. We also would need to increase the size of our technical staff to move the projects along faster.

Senator DeConcini. I notice your budget also proposes productivity and A-76 savings totalling $1.1 million. How do you expect to achieve this savings? Do you think this is a good idea?

Mrs. Pope. The productivity savings of 8 FTEs and $226,000 are the final result of the research and development project for the Coin Press Feed System. The Coin Press Feed System was designed to improve productivity of the coin presses. Combined with savings in FY 89 of 11 FTEs and $311,000, total productivity savings for this project will amount to 19 FTEs and $537,000.

The savings of 65 FTEs and $917,000 are the total proposed reductions resulting from A-76 studies. The FTEs and funding reductions were imposed by OMB in advance of the studies being conducted and represent a government-wide average savings per total FTEs to be studied. Most of the imposed reductions (63 FTEs) are identified in the police force where OMB indicates that an A-76 study will identify ways of making the security operations of the Mint more efficient or will indicate it should be replaced by private security guards through contracting out procedures. Since the study is not expected to be completed until October 1989, it is too early to determine whether or not it is a good idea.

Senator DeConcini. Last year this subcommittee became aware of the Mint's plans to destroy the Susan B. Anthony dollar. As a result, the Mint was directed to prepare a thorough report that evaluates the possible options for recoloring or recycling the coin before it is melted down. This report was also required to provide an analysis of the potential cost savings that could be derived from these and other proposals to utilize this coin.

The report was due by February 1, 1989. Have you completed this study, and if so, what were your findings?

Mrs. Pope. We are continuing to look at the technological side of the options to change the existing Susan B. Anthony (SBA) dollars. A final report is expected by early July 1989. The issue of recoloring or recycling the SBA dollar coin continues to have major questions that are not easily answered --- (1) Does the public want the SBA dollar or any other dollar coin? --- (2) Will the vending machine industry support the coin? --- (3) How would this affect other $1 coin legislation which is currently proposed? --- (4) Are we locking ourselves into a process (coloring the SBA) that would make any new dollar coin cost more than is necessary?

QUESTIONS SUBMITTED BY SENATOR DOMENICI

Senator Domenici. The fiscal year 1990 appropriation request for the U. S. Mint reflects a $36,000 transfer to the new Treasury Statutory Inspector General. No positions are proposed to be transferred so I assume the Mint currently has no positions or funds devoted to internal audit functions; is that correct? If so, why is $36,000 being transferred in fiscal year 1990 to the Statutory Inspector General office?

Mrs. Pope. The Mint does not have positions or funds devoted to internal audit functions. Internal audits of the Mint's operations are conducted by existing staff of the Office of the Inspector General. Due to the overall increased size of the Inspector General's audit staff, it is necessary to upgrade the existing ADP capacity for audit management and control. Since the Mint and other non-law enforcement bureaus will also benefit from improved ADP operations, agreement was reached to transfer funds from those bureaus. The Mint's share is $36,000.

Senator Domenici. The fiscal year 1990 request includes savings of 65 FTE and $917,000 resulting from A-76 savings. I note on page 4 of the justification materials that $665,000 of this savings results from contracting out security functions. I assume this is net savings. What is the cost of contracting out these security functions? Have we decreased, maintained, or enhanced security at the Mint by contracting out? Which security functions have been contracted out? How many FTE positions are associated with this $665,000 in savings? Which A-76 efforts account for the balance of the $252,000 in savings? What number of the total 65 FTE position reduction are associated with each of these A-76 efforts?

Mrs. Pope. The A-76 Study for contracting out security functions has not been completed. The 65 FTEs and $917,000 funding reductions were imposed by OMB in advance of the studies being concluded and represented a government-wide average savings per total FTEs to be studied. The Mint expects to complete these studies by October 1989.

The 65 FTEs reduction to the Mint's appropriation would consist of 63 security positions, about 43% of the 147 appropriated security positions, and 2 positions from the medical/dispensary operations. The reduction of 65 FTEs reduced the Mint's request for personnel compensation and benefits by $1,620,000; however this funding decrease was offset by an increase of $703,000 for contracting out services to arrive at the imposed total reduction of $917,000.

The $252,000 is not an A-76 reduction. It represents the total A-76 reduction of $917,000 less the net reduction to the security activities of $665,000. The $665,000 net reduction to the Mint's security activities is calculated as follows:

Security Activities	Funding	FTEs
A-76 Study:		
Decreases in Personnel Compensation and Benefits	$(1,570,000)	(63)
Increases in Contracted Services	681,000	-
Net A-76 impact on Security	$ (889,000)	(63)
Increases for:		
Maintaining current levels (inflation)	$ 199,000	-
Travel for gold audits	25,000	-
Net Reduction to Security	$ 665,000	(63)

The balance of the A-76 reduction, $28,000 ($917,000 less $889,000) and 2 FTEs (65 FTEs less 63 FTEs) for the proposed contracting out of medical/dispensary operations, is charged to our coining activities.

Senator Domenici. The fiscal year 1990 request assumes savings of 8 FTE and $226,000 as a result of productivity improvements at the Mint. Please be specific as to the productivity improvements which have been made to reduce the Mint's staffing requirements.

Mrs. Pope. In fiscal year 1990 the savings of 8 FTE and $226,000 are the result of the research and development project for the coin press feed system. During fiscal year 1990, the Mint plans to install 50 coin press feed units, half at the Philadelphia Mint and half at the Denver Mint. The coin press feed

system was designed to improve productivity of the coin presses.

Senator Domenici. No funds are requested in fiscal year 1990 for research and development. The justification indicates that no projects are currently planned. Why is this the case? Funding of $665,000 was provided for research and development in fiscal year 1989. Specifically, $75,000 for the "Count, Bag, and Stack System"; $150,000 for a "Computerized Coining Control Initiative"; and $440,000 to allow the Mint to purchase equipment to implement R&D results. What is the status of each of these efforts? How much of the $665,000 provided will be obligated in fiscal year 1989 for each of these purposes?

Mrs. Pope. For fiscal year 1990, the Mint is not planning to begin any new research and development projects, however, progress continues on projects currently underway. In addition to the $665,000 appropriated in fiscal year 1989, we have $2,610,000 available in unexpended funds for a total of $3,275,000 in appropriated funds. We expect to obligate about $2.0 million of the $3.3 million in appropriated funds by the end of fiscal year 1989. The balance of the funds will be obligated in fiscal year 1990. The following is a brief status of each project:

Improved Coin Press Feed System

During fiscal year 1989 design problems were identified and modifications were initiated to resolve them. A decision was made to procure fifty units, split evenly between Philadelphia and Denver. The installation of the production units is projected to carry into fiscal year 1990.

Count, Bag and Stack System

The Mint made decisions to modify the first robotics system and to procure a second semi-automated robotics system. The first system would be used strictly for penny operations and the second system would handle all denominations. The $75,000 will be used to modify the first robotics system. Future plans include consideration of a fully automated system that can automate the entire count, bag and stack process.

Modeling of Metal Flow in Coining

A contract was awarded to Battelle to use their computerized Finite Element Model (FEM) of metal flow to predict metal movement, stresses in different areas of the coin/die, and overall forces required. While the first two phases were completed successfully, Phase III tests have led Battelle and the Mint to question

whether their existing model, ALPID, is capable of simulating trial strikes.

Blank/Coin Screening Device

This project is for the development of a prototype unit and demonstration of the economic feasibility of improving press utilization by prescreening blank feedstocks to remove critical defective blanks before they reach the presses. Screening will also be used on coin feedstock to the coin counting machines to minimize stoppages. We plan to award a contract in late fiscal year 1989.

Coin Lubrication Study

A contract was awarded to Superior Resource Group, Green Bay, WI for a study of coin lubrication, recommendations for best lubrication methods and lubricants, and a demonstration of the recommended method(s), each as a separate phase of the contract. The project is on hold for six months before a decision is made to enter Phase II. This time period will be used to investigate and resolve problems such as die clash and contamination of blanks by abrasive particles that impact on the course of the project.

Computerized Coining Control Initiative

This project is on hold. The Mint has not been able to find readily available technology in the marketplace to allow us to proceed with this project.

Senator Domenici. The fiscal year 1990 request includes $385,000 for asbestos removal at the Denver and Philadelphia Mint facilities. The justification indicates that the program of asbestos removal will be initiated at Philadelphia. The fiscal year 1989 request included funding for asbestos removal at Philadelphia; why is this effort not being initiated until fiscal year 1990? Please provide for the record the total estimated cost of asbestos removal at each of the Mint facilities and the amount provided for each by previous appropriations.

Mrs. Pope. The asbestos removal efforts at the Denver Mint were suspended in November 1988 when a court ordered permanent injunction enjoined the Mint from awarding the contract for asbestos removal to LVI Environmental, Inc. The injunction was precipitated by a motion filed by an unsuccessful bidder. A new solicitation had to be issued. A contract is expected to be awarded in May or June 1989. Because of the suspended efforts at Denver, funds appropriated in fiscal year 1988 were not utilized. A Comptroller

General ruling has permitted the Mint to use those fiscal year 1988 funds for the new contract.

The Mint did not plan to conduct asbestos removal operations at Denver and Philadelphia at the same time because of the overbearing disruption this would have created in domestic coin production. Because of the delay at Denver, the asbestos efforts planned for the Philadelphia Mint have been rescheduled to begin in fiscal year 1990.

The following table indicates, by facility, the total estimated requirements and the actual funds provided by previous appropriations through fiscal year 1989.

(In Millions of Dollars)

	Amounts Provided By Previous Appropriations			Estimated Total Cost		
	Appropriated	Reimbursable	Total	Appropriated	Reimbursable	Total
Denver	3.4	.3	3.7	3.5	.3	3.8
Philadelphia	.6	.2	.8	1.7	.9	2.6
San Francisco	-	.1	.1	-	.5	.5
West Point	-	-	-	-	.2	.2
Total	4.0*	.6	4.6*	5.2	1.9	7.1

*With the delay in the asbestos effort, the Mint reprogrammed $1.6 million of asbestos funding in fiscal year 1989 to provide for increased coin production necessary to produce an additional 1.3 billion coins in order to maintain coin inventories at a safe level.

Senator Domenici. The fiscal year 1990 request includes a $1,935,000 increase for equipment replacement. What specific equipment replacements at each facility does this include?

Mrs. Pope. The Mint's overall request for equipment replacement in fiscal year 1990 is $3,441,000. This represents an increase over fiscal year 1989 of $1,935,000. This higher level of funding would allow us to purchase five new high speed coining presses for the Philadelphia Mint and a blanking press for the Denver Mint.

Senator Domenici. An increase of $1,000 is requested in fiscal year 1990 for subscriptions. What specifically is this for?

Mrs. Pope. The increase of $1,000 is an inflationary increase to maintain current levels and is

based on economic assumptions released by OMB for the FY 1990 President's Budget. In view of the fact that the United States Mint is a manufacturing concern, it is necessary that we subscribe to various industry publications such as Metals Week, American Metal Market newspaper, American Society of Quality Control and Society of Manufacturing Engineers publications, etc., in addition to the routine publications subscribed to by most government agencies.

Senator Domenici. In fiscal year 1990, a $246,000 increase is requested in "other Services". The justification indicates that this represents the change from fiscal year 1989 to fiscal year 1990 for "TPIS/PERMITS". What does this mean?

Mrs. Pope. "TPIS/PERMITS" are acronyms for Treasury's Payroll/Personnel System which is operated by the Treasury Departmental offices. The increase of $246,000 is the Mint's share of the expected increase in the costs for providing these services.

Senator Domenici. What was the Mint's original fiscal year 1990 funding request, as submitted to the Department? How did it differ with the level requested in the President's budget?

Mrs. Pope. The Mint's original fiscal year 1990 request as submitted to the Department was $53.630 million. This is $2.895 million more than the President's Budget request of $50.735 million.

The major differences are related to reductions for: $.9 million for A-76 studies; $.6 million in equipment; $.5 million for lands and structures; $.2 million in productivity savings; $.4 million in support personnel; and $.3 million to offset pay increases.

Senator Domenici. Last year, the Mint indicated that the $575,000 request for building improvements was $515,000 below its original request level and that approximately $5.1 million in appropriated funds would be required over the next five years. The fiscal year 1990 request includes only $200,000. Is $5.1 million still an accurate estimate of your building improvement need?

Mrs. Pope. The Mint currently estimates that about $5.3 million is needed for building improvements over the next five years. The amount included in our fiscal year 1990 budget is $575,000, an increase of $200,000 above fiscal year 1989. We recognize that the $575,000 requested level is a small step toward total

improvements that are needed; however, with limited funding and increased coin demand, emphasis must be placed on coin production.

Senator Domenici. What is the Treasury Department's position concerning proposed legislation mandating redesign of circulating coinage?

Mrs. Pope. Treasury generally finds nothing objectionable about the concept of coin redesign, as specified in H.R. 505. The Mint will require a small amount of supplemental funding to produce the additional coins required in the short term. There are, however, several concerns with the legislation as written:

- The legislation requires the first new coin design to be introduced 12 months after enactment. This time is not adequate, and could result in an undesirable mid-year issue. The United States Mint would need 15 months from enactment for the first design, to ensure the development and testing of new coin dies. In addition, issuance of the new design at the beginning of a calendar year is desired to avoid increased withdrawal of coins because of numismatic speculation.

- Coin redesign is not expected to cause significant short term increases in demand. However, the redesign period specified in the bill coincides with a period in which the Mint will be increasing production to build up coin inventories. Accomplishing redesign during this period will require increased planning and control, but should be manageable.

Supporters of this issue have touted it as a deficit reduction measure, due to the increased seigniorage it would generate. However, seigniorage is not an on-budget receipt, but rather is a means of financing the deficit similar to borrowing from the public. Increased seigniorage would reduce the need for borrowed funds and therefore result in some interest savings, but would not result in a dollar for dollar reduction of the deficit.

Senator Domenici. What is the status of silver sales?

Mrs. Pope. The Secretary of the Treasury has delegated his authority to sell silver (2.5 million fine troy ounces to be sold annually in fiscal years 1989, 1990 and 1991) pursuant to the Treasury/Postal

Appropriations Act (P.L. 100-440) to the Treasurer. The Treasurer has assigned operational responsibility for the sales to the Mint. A sale will proceed unless the Treasurer notifies us in writing that the sale should not proceed. A Silver Sales Review Group has been formed by the Treasury Department to advise the Treasurer of the suitability of an upcoming sale.

The Mint has entered into an interagency agreement with the Defense Logistics Agency which authorizes it to act as the Mint's agent in conducting the sales. The Defense Logistics Agency expertise in connection with the sale of commodities is well established. The Mint, however, will retain strict oversight control over each individual sale of silver.

The Defense Logistics Agency is presently drafting solicitations for the first sale to take place later this year.

SUBCOMMITTEE RECESS

Senator DECONCINI. The subcommittee will recess until Friday, March 10.

[Whereupon, at 11:15 a.m., Wednesday, March 8, the subcommittee was recessed, to reconvene at 10 a.m., Friday, March 10.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1990

FRIDAY, MARCH 10, 1989

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:02 a.m., in room SD–116, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present: Senators DeConcini, Domenici, and Kerrey.

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

STATEMENT OF MICHAEL J. MURPHY, ACTING COMMISSIONER

ACCOMPANIED BY:

CHARLES H. BRENNAN, DEPUTY COMMISSIONER, OPERATIONS
JOHN L. WEDICK, JR., DEPUTY COMMISSIONER, PLANNING AND RESOURCES
RICHARD J. MIHELCIC, ASSOCIATE CHIEF COUNSEL, FINANCE AND MANAGEMENT
HENRY H. PHILCOX, ASSISTANT COMMISSIONER, INFORMATION SYSTEMS DEVELOPMENT
STEPHEN E. TAYLOR, DIRECTOR, FINANCE DIVISION
DAVID NUMMY, ACTING ASSISTANT SECRETARY OF THE TREASURY FOR MANAGEMENT

OPENING REMARKS

Senator DECONCINI. The Subcommittee on Treasury, Postal Service, and General Government will come to order.

Today, we will continue our hearings on the fiscal year 1990 budget request by taking testimony from Mr. Michael Murphy, Acting Commissioner of the Internal Revenue Service, and Mr. Anthony Frank, Postmaster General of the United States.

Before we get started, I would like to say a few words about the departure of Larry Gibbs from the IRS. Mr. Gibbs was an outstanding Commissioner, and in my working relationship with him, we had our differences, but they were professional and he was not afraid to come forward and discuss these differences first hand and very candidly. It was a very rewarding experience to work with him.

Mr. Murphy, I kind of feel you are cut out of the same pattern, even though you look at things a bit differently, I understand. Indeed, you have an outstanding record, so we are very pleased to welcome you and your staff people here before this committee, and we look forward to working together.

I am sure we will have our differences on different priorities, and most of it deals with money. If we had enough money, we would give you everything you want, and more, probably, but that is not the case. My new staff director here, Patty Lynch, is well aware of some of your needs, and we have discussed them and we will continue to work with you.

Now, if you would introduce your people who are with you and summarize your testimony, you may proceed.

Mr. MURPHY. Thank you, Mr. Chairman.

Senator DECONCINI. Excuse me. Senator Domenici is going to be here a little bit later this morning, and I have a statement from Senator D'Amato that will be made part of the record.

[The statement follows:]

STATEMENT OF SENATOR D'AMATO

Mr. Chairman, I look forward to a thorough review of the IRS's budget request for fiscal year 1990. With a budget request for $5.5 billion and 115,110 average positions, IRS expects to: Collect $1.1 trillion in gross tax receipts; improve selected tax enforcement activities to seek additional tax collections of $318 million in fiscal year 1990; expand its drug enforcement role through participation in the organized crime drug enforcement task force's Operation Alliance, and national and international money laundering investigations; process 196 million individual tax returns; issue 84 million tax refunds; process 1 billion information return documents; examine 1.5 million tax returns; secure 4.5 million delinquent tax returns; and respond to 68 million taxpayer service requests for information.

Mr. Chairman, that is a tall order. In its original budget submission to OMB, IRS asked for $6.8 billion to enable it to meet its responsibilities. The Treasury Department approved a level of $5.9 billion. OMB ultimately approved a request of $5.5 billion.

I look forward to working with you and the members of this subcommittee to determine which of these amounts is closest to what IRS needs, and, in the face of serious budget restraints, to help IRS achieve its goals.

STATEMENT OF MICHAEL MURPHY

Mr. MURPHY. Fine. Well, before I introduce other witnesses, Mr. Chairman, let me just first thank you for the comments both about Commissioner Gibbs and about the fact that I will be acting until the President appoints another Commissioner.

I am sure you realize that Larry Gibbs feels the same way about dealing with you and members of your staff and other members of the committee and their staffs. He has put an awful lot of important things on the plate for us that I am sure we will be discussing before the morning is over.

As far as my own experience of having accompanied him before, I think your interest in tax administration is well documented, as well as our desire to do the best job possible.

INTRODUCTION OF COLLEAGUES

I would like to just start on my left, Mr. Chairman, by introducing somebody who is kind of a familiar face, I think, around here,

but now he is on our side of the table, and that is Mr. David Nummy from the Treasury Department.

Senator DECONCINI. Yes; we miss him over here. We used to have the advantage over you guys. [Laughter.]

Mr. MURPHY. Well, that is good to hear. [Laughter.]

OK. Next to David Nummy is Hank Philcox, our Assistant Commissioner of Information Systems Development, and I think you have met John Wedick before, the Deputy Commissioner of Planning and Resources.

To my left is Steve Taylor, the head of our finance operation. To my far right is Rich Mihelcic, an Associate Chief Counsel who has been here before; and, of course, Charly Brennan, the Deputy Commissioner for Operations.

So we are all tickled to be here, and after I make, as you suggested, a summary of my testimony that has been submitted for the record, Mr. Chairman, we welcome whatever questions that you might have.

I have got really a condensed version of that testimony and would really prefer to just start out by telling you that we see this as a followup on what we did in implementing tax reform 1986.

1988 FILING SEASON

As you know, we put an awful lot of effort into the planning for implementing the substantial change that took place in tax law, and we find that that type of approach is something that we continue to do in planning for filing seasons and other things.

And I would also like to report to you, Mr. Chairman, that in spite of the numerous changes that did take place in tax reform 1986, we feel as though we have progressed quite well, and I know you have mentioned that before yourself.

Certainly, the budget support that we received has been essential to all of the things that we are doing and what we continue to do, and that is certainly why I want to give you an idea of where we are in 1989 and then discuss a little about fiscal year 1990.

1989 CONCERNS

Let me start with 1989, Mr. Chairman, by just again reflecting on the fact that we received funding of $5.2 billion, which involved total positions of 113,811. Of course, included in that were some items for which we have incurred unavoidable costs that were not reflected in the budget, such as an $85 million pay raise, health benefits of about $23 million, and several other important program increases that were involved that came up to somewhere in the neighborhood of $360 million.

I would just like to report to you that we are trying to deal with that the best we can. I am not here, you know, throwing out the mat, saying I need some help right now on it. That isn't the purpose of this, as you know.

1989 FILING SEASON

But let me give you a little bit of flavor of how the filing season is going while I am at it, since we are talking about 1989. Of

course, I am referring to the importance of taxpayer service, the returns processing, and distribution of forms to the taxpayers.

I think that GAO probably made a pretty good statement last year as to how they assessed the last filing season, and that was that it was a successful filing season. We are predicting the same things here, with an exception that I will get into as far as a problem area.

But to bring you up to date, Mr. Chairman, what we have got—as of, I believe, it is March 3, we have got receipts of 37,512,000 returns. This, of course, includes—and, it certainly is a highlight—777,000 electronically filed returns.

And to give you a point of comparison on that, the 777,000 are from January 1 to right now, and that compares to 310,000 last year at this time. So you can see that electronic filing is really taking off and, I think, is kind of a predictor of the future.

As far as refunds, the average refund is right around $833 per refund, and that compares to $802 from last year. We are still advising taxpayers that if they file now, they can expect to get their refund within 6 weeks. Of course, if they file electronically, that period of wait is much shorter, down into just a few weeks.

So let me just cap that part by assuring you that as far as the processing of our work, the providing of refunds to the taxpayers, and the bright spot of electronic filing, I would say we are in excellent shape this filing season.

On toll-free telephone calls, as of this stage we are at 15.5 million telephone calls. That is a little bit lower than last year where at this time we had 16.9 million calls. On Tele-Tax, which is your prerecorded messages that taxpayers call in and access and then, of course, you get the recorded response, another bright spot. We are showing 7.8 million calls of that nature, compared to only 2.4 million last year at this time. So it looks as though that program is taking shape, so we are very optimistic about that one.

ADDRESSING 1989 CONCERNS

That pretty well does it on the 1989 comments that I would make, Mr. Chairman, other than to once more just assure you that we are feeling the strain of dealing with the problem that I mentioned earlier. We are trying to manage that in the best way that we can.

We have restrictions on hiring. We certainly are not furloughing permanent employees or anything like that, but we are tightening our belt right now so that we can work our way out of this by the end of the fiscal year.

FISCAL YEAR 1990

Let me move into 1990. As you know, for fiscal year 1990, we are asking for $5.5 billion and 115,110 positions. This, in budgetary terms, is an increase of $289 million, or 2,052 positions.

PROVIDING BETTER SERVICE TO TAXPAYERS

Let me share with you just the priorities, again, to further emphasize the fact that the emphasis on taxpayer service remains as

it has been and as you have supported during 1989 and 1988, and that is to provide an approximate 85-percent level of service to those that are trying to get to us on the phones, to process those returns timely, and to get the taxpayers their refunds.

TAXPAYER SERVICE ACCURACY

I mentioned earlier that we are having a problem, and that plays out in the accuracy of our responses to technical tax questions. As you know, in the fiscal year 1990 budget, we do have a request for an additional 1,300 positions and $55.9 million, and the intent there is to continue doing the job of trying to provide the best service to our customers, the taxpayers, and certainly your constituents. This is what is needed to get that balance between service and enforcement.

A few of the actions on that subject—and we will be glad to talk more about it during the questions—that we have put in place and how we are intending to use funds is that we have put diagnostic centers in each one of our regional offices, which is intended to, where we have a problem, get immediate feedback in those regional offices and get out into the district or into the call sites to try to give immediate correction either through job aids, through morning meetings, or through some kind of brief training.

We do have more full-time assistors, and we really are still in need of the staffing that would support the assistors where they could spend an adequate amount of time with taxpayers on these live calls. That seems to have been one of our problems. If you are rushing to get off the phone, you just can't do justice and provide an accurate answer.

On that subject, Mr. Chairman, we certainly have our work cut out, and the number of wrong answers is not acceptable to us. And, again, just to give you a flavor on that, we are showing an error rate of about 30 percent, Mr. Chairman. In other words, 7 out of 10 taxpayers are getting what we consider to be right answers which permit them to file an accurate return.

I think any resources that you and the committee would approve would assist us in meeting the objectives that we have laid out for the Internal Revenue Service.

SERVICE CENTER CORRESPONDENCE

Another area of priority is the fact that we have reported errors, as has GAO in reviewing us, in the accuracy and clarity of correspondence, where taxpayers are writing to us at the service centers.

I think even in that area, although I am reporting a smooth filing season, improvement is needed in the quality of the correspondence that we submit in responding to taxpayers when they write to the center and, of course, the quality of our answers in taxpayer service.

IMPROVING INFORMATION SYSTEMS

Just a few more items on the priorities, Mr. Chairman, and I think the first is an absolutely essential one. The modernization of

the tax system that we are dealing with has been the subject of many discussions, and we are pleased to report that people in OMB and in Treasury have certainly provided their support in recognizing the fact that we do have an antiquated system that needs improvement, and that if it doesn't get improved, such things as capacity and other problems that could relate to an organization that handles as much paper as we do and as many transactions, could really be in serious danger.

So when we talk about tax system modernization in the nineties, I think, as you noted last year where there were funds of a limited and a small amount compared to the total amount of tax system modernization, we again are showing a request for, I believe it is about $80 million—I think I have a chart on that that I can share with you—$80 of $102 million in that area.

So the importance of the tax system modernization is one that I just cannot emphasize enough, and I think what it does is it puts the taxpayers in the modern age.

IMPROVING TAX ENFORCEMENT

Another area of priority is the improvement of tax enforcement. We have an additional $318 million in revenue collections that are reflected in this budget. Certainly, as you know, it costs money to make money, and that is also reflected in the budget.

Just a few of the areas that are aimed at improving tax enforcement that are reflected in that $318 million would be the increased number of correspondence audits that would be conducted, and also an attempt to get further receipts out of accounts receivable.

OK, that has to do with some of the priorities. Let me get a little bit broader on that, Mr. Chairman, by just telling you, also—I mentioned tax system modernization. I will tell you another area that I believe is key, and certainly Larry Gibbs did as our Commissioner.

QUALITY

The key, I think, to where the service goes, along with technology, is a further commitment on the subject of quality. I recognize that quality and productivity is something that has to be linked together, and I think in this journey to improve quality and change that culture in our organization, that is certainly the direction that we want to go and that you would want us to go.

Maybe just to give you an idea, I feel as though we are kind of stealing a lot of the good ideas from private industry about quality, but I also think you will find that the Internal Revenue Service has taken on a pioneer approach in what we are doing.

We have even got people in private industry impressed with some of our ideas, and one specific one that comes to mind is the attempt at quality improvement projects. I think you are aware that in 1987, the Commissioner entered into an agreement with Bob Tobias, the president of the National Treasury Employees Union, and we have just reconfirmed that agreement recently at an all-executive and all-chapter-president conference to a point where the employees of IRS are also committing—have been committed to doing a good job, but in a much more organized way where management, employees, and the representatives of those

employees can truly say that all of IRS wants to do a quality job and please the customers we serve.

Those that we are dealing with in an enforcement way, we would like to impress them with our professionalism and our courtesy, even though there are times that we have to use some of the tools that we have for enforcement. Of course, we intend to do that, but the right way, not the wrong way.

I mentioned before about the importance of customer service, and I would just reinforce that again by saying we are learning more about the customers that we serve and we think that they are learning a lot more about us. We still look to the day that taxpayers can look at IRS and say this organization does listen, even though they have a tough job to do. We would like to give more signs of that taking place out there.

FORMS TESTING

A few of the ways that we are doing that is we continue to deal with focus groups of different disciplines on how our forms affect them, how some of the things we do affect them, and we report on that periodically.

Senator DECONCINI. Is that done in-house or do you contract for that?

Mr. MURPHY. No; we have used consultants, Mr. Chairman. We are getting a little bit better at it where we do some of that ourselves. It is kind of a mix in that.

Senator DECONCINI. Do you videotape those?

Mr. MURPHY. I don't believe we do. John?

Mr. WEDICK. No; we haven't at this point.

Mr. MURPHY. No; we do not.

TOWN MEETINGS

Another item that is kind of a startup of something we did years ago more in the tax form area, but I think it is even a little bit broader here, is we are holding a series of town meetings.

I would like to have the opportunity to repeat one of those meetings when Senator Domenici comes because I notice that on April 4, we will be holding a town meeting in Albuquerque, NM. We have had them in Milwaukee and Raleigh. I think there is one scheduled for Phoenix and one in Portland. Ten town meetings will be held.

A byproduct of that is some of the directors are even extending those meetings away from the metropolitan and the headquarters cities. This is another way to get ideas on how our forms are really striking the taxpayers that we serve.

Senator DECONCINI. Have you submitted the calendar dates of those meetings?

Mr. MURPHY. No; but I would love to have the opportunity to submit that for the record. I don't have a copy of that with me, but certainly we will take care of that.

Senator DECONCINI. Thank you.

[The information follows:]

IRS TOWN MEETINGS

January 12, 1989, Milwaukee, Wisconsin; February 14, 1989, Ft. Lauderdale, Florida; February 16, 1989, Raleigh, North Carolina; March 8, 1989, Portland, Oregon; March 9, 1989, Sacramento, California; April 4, 1989, Albuquerque, New Mexico; April 19, 1989, Hartford, Connecticut; April 25, 1989, Indianapolis, Indiana; April 26, 1989, Pittsburgh, Pennsylvania; and May 11, 1989, Hempstead, Long Island, New York.

In addition to the meetings listed above, the Milwaukee, Wisconsin District Director scheduled meetings in Madison, Wisconsin (March 21) and Green Bay, Wisconsin (March 22).

DRUG ENFORCEMENT

Mr. MURPHY. Let me talk a little bit about drug enforcement and I will wind up this part of your hearing. In the drug area, I would like to just reassure you again that when it comes to organized crime drug enforcement task force activities, we see that we are still second only to DEA in terms of the number of investigations that we are participating in in the organized crime drug enforcement task force area.

One of the challenges that we have, Mr. Chairman, in this area is to maintain the balance between general enforcement with our criminal investigation resources and special enforcement, which, as you know, includes the Drug Enforcement Program.

And I don't think it is any secret that the Omnibus Anti-Drug Abuse Act of 1988 does not contain additional funds for the Internal Revenue Service, but we certainly look forward to whatever discussions take place on that between the administration and the Congress.

Of course, the same is true on the Technical and Miscellaneous Revenue Act, which includes the Taxpayer Bill of Rights and also the Medicare Catastrophic Coverage Act of 1988. In the drug enforcement area, let me just reaffirm with you that we intend to stay with our commitment to being a full partner both in Treasury and with other agencies in the war on drugs.

TAXPAYER BILL OF RIGHTS

Let me switch to just a few comments. I mentioned the Taxpayer Bill of Rights to you. We have a few things that we are already doing, and I would like to submit also for the record a copy of a memo that Larry Gibbs sent to all employees which I think will kind of take on what is truly the spirit that the Internal Revenue Service has in dealing with the implementation of the bill of rights.

ENSURING TAXPAYERS' RIGHTS

We see this, Mr. Chairman, as a—and I have got a few copies here; if someone will pick them up from me, I can get them around to you. I think you will see from that that we have already done some things, such as put out publication 1, which is "Your Rights as a Taxpayer."

We also have what we refer to as a form 911 where taxpayers can apply for hardship relief in dealing with the Internal Revenue Service. Problem resolution officers have the authority to issue taxpayer assistance orders which allow additional time for review of the case before any enforcement action is taken.

Not only has the memo that you are looking at from Larry Gibbs gone out to 100,000-plus employees, but several of us have participated in a video on the same subject of what bill of rights means to the Commissioner of Internal Revenue and the people that are in the top positions, and what it should mean to those that are out there working with the taxpayers to ensure that the taxpayers' rights are respected. We have always felt that we have done that. We recognize that we can do it better and we are going to implement this in full force.

MAINTAINING A BALANCE BETWEEN SERVICE AND ENFORCEMENT

Let me wrap up, Mr. Chairman, by just saying to you that we recognize our purpose for being. We still feel that we are the best in the world at what we do, but we are constantly reminded that our job is to collect the proper amount of revenue at the least cost to the public, and we want to do it in such a way that we can improve the confidence of the taxpayers we serve and that they can be impressed with our efficiency and our integrity.

I think one of the ways to do that and to get voluntary compliance is that—and with your help and the help of this committee, is to help us maintain the balance of supporting those taxpayers that want to comply with the tax laws, to give them the tools that they need to comply, and to balance that with an active and efficient compliance program.

We feel that we have done that in fiscal 1989; we continue to do it. We intend to do that in 1990, and we would do that with your help. And I am certainly eager, just like Larry Gibbs was, to continue the dialog that would take place between the Internal Revenue Service and your subcommittee.

PRESENTATION OF CHARTS

I would like to just take a moment, an additional moment, Mr. Chairman, to talk about a few of the charts that are behind me. I have already warned Debbie that if she puts up a sign saying "you are lying" or anything like that, I am going to be very upset with her, so I am going to trust her, all right? If you start laughing, I am going to know I am in trouble on this one.

OK. The first chart——

Senator DECONCINI. She never worked over here. [Laughter.]

Mr. MURPHY. There are some reduced versions of the charts that are coming over to you.

PROGRAM RESPONSIBILITIES

Again, I just want to give you kind of a view of what our responsibilities are by showing that for fiscal year 1990, we are projecting processing 196 million tax returns and 1 billion information returns. We predict issuing 84 million refunds and assisting 68 million taxpayers.

We will examine 1.5 million returns. It reflects the delinquent accounts and the delinquent returns, accounts at 3 million and returns at 4.5 million. That next figure is one that is kind of mind-boggling, but we estimate gross revenue collections of $1.1 trillion,

netted out with $107 billion in refunds, for net tax revenues of $993 billion. So I think it illustrates the job that we have to do, and it also points out some areas that need further attention.

RETURNS FILED

The next chart, Mr. Chairman, really just gives you kind of a graph of the returns filed. You can see from 1989, where we are predicting 190.4 million, and it takes us up to 195.6 million for fiscal year 1990.

Our whole operation of processing tax returns, receiving those or examining those returns, collecting unpaid accounts, investigating the potentially fraudulent returns, I believe, and I think that this committee has supported, revolves around the number of returns that are being filed.

So we are reflecting continuing growth in that area, and that workload has certainly impacted on our ability to do all the things that I just spoke of. I think the trend of taxpayers filing their returns later still makes it a little bit challenging.

Although I think we stem the tide on the late filings with some of the activities that we have discussed with you before, such as file your returns early and accurately and making your taxes less taxing, we still have that trend of taxpayers filing later.

TAXPAYER SERVICE WORKLOAD

The next chart, Mr. Chairman, gives you a little flavor of the taxpayer service workload and the makeup of the assistance we estimate we will provide to taxpayers in 1990: Answering 38.8 million calls, 7 million taxpayers coming into our office for visits, responding to 200,000 in the correspondence area.

Those recorded messages again is the Tele-Tax that I mentioned to you earlier. We are really optimistic about taxpayers taking advantage of calling in for our recorded messages when they have particular questions. So we predict 14 million taxpayers will call in and listen to our prerecorded tax information messages.

We will serve 1.5 million taxpayers through our outreach programs. The VITA, or Volunteers in Income Tax Assistance Program, and the tax counseling provided for the elderly is still an item in here, and that, of course, is putting that emphasis on taxpayers age 60 and over; taxpayer education in the 4.1 million area.

So, again, that figure does not include about 16 million orders that we fill through our centralized forms distribution program. So you have got the 68.4 million assisted there, then another 16 million through the Centralized Forms Distribution Program.

Senator DECONCINI. Let me just ask you a couple of quick questions right here.

Mr. MURPHY. Sure.

Senator DECONCINI. On recorded messages, do you know how many callers actually hang on long enough to get answers?

Mr. MURPHY. On recorded messages?

Senator DECONCINI. Yes.

Mr. MURPHY. I am not sure of that, Mr. Chairman.

Mr. BRENNAN. The figures in there, sir, are the ones that we do answer.

Senator DECONCINI. Well, if somebody calls in and if it is one of these phone services that directs users seeking one answer to push button one, and if users are seeking a different answer they must push button seven, how many go beyond just calling in and then hanging up?

Mr. MURPHY. Oh, I don't know.

Mr. BRENNAN. During the period of September 25, 1988, to March 18, 1989, 5.6 million telephone calls were abandoned by taxpayers. Abandoned calls are not included in the Tele-Tax figures.

Senator DECONCINI. And then what is taxpayer education?

Mr. MURPHY. The Taxpayer Education Program is where we——

Senator DECONCINI. Give me an example of what you do there.

Mr. MURPHY. OK. Workshops for small business people where we go out and we bring the message of—say, you are coming in business for the first time, and we would have some discussion with you about how you comply.

Senator DECONCINI. There are 4 million of those?

Mr. MURPHY. The Understanding Tax Program in the high schools is part of that, or any type of teaching taxes going on. The involvement of—this would be 4.1 million taxpayers that are served receiving publications, not number of conferences, Mr. Chairman.

Senator DECONCINI. Oh, it is the number of taxpayers.

Mr. MURPHY. I am sorry if I confused you on that.

Senator DECONCINI. That is all right. Go ahead.

Mr. MURPHY. And the point that you made about the recordings—I suppose you could have somebody calling on, say, alimony and all of a sudden a recording on moving expenses could come on and they would hang up right away.

Senator DECONCINI. Yes.

IMPROVING TAX ENFORCEMENT ACTIVITIES

Mr. MURPHY. So that is a possibility, but we are not seeing any pattern. We are not getting anything like that from our focus group contacts.

OK. Moving right along, the next chart has to do with a breakdown of the item on collecting the $318 million in additional revenue, and that is made up of collecting past-due accounts of $107 million, $101 million in correspondence audits, $12 million to ensure taxpayer compliance with dependent Social Security reporting requirements, $69 million in the reconciliation of wage reports, the Social Security reports, reconciling them with employment tax cases reported to IRS, and $29 million to expand international compliance. This makes up the $318 million of additional revenue.

Just one comment on those correspondence audits. What I am talking about there are the contacts that are made in areas that do not have an impact on audit coverage, but do impact on the number of taxpayers that we are in contact with.

I have a few more notes on that that I am confident will come up later in the hearing, so I am not going to get into that.

ORGANIZED CRIME DRUG ENFORCEMENT

The next chart on organized crime drug enforcement, I really think just makes the points that I mentioned to you earlier, and you can see the IRS in the blue on the chart with the number of investigations that we have in drug enforcement task force cases.

Just to give you an idea, we will devote a total of 1,570 average positions and over $70 million to narcotics-related matters in 1990. This involves currency transaction reports, so there is a lot of activity in the organized crime drug enforcement task force that IRS is very deeply involved in. As I mentioned earlier, we will continue to support the drug enforcement activities.

SERVICE AND ENFORCEMENT

The last chart that I have, Mr. Chairman, is a further demonstration of what I said before about the need to have balance between the enforcement side of the Internal Revenue Service and the service to the taxpayers that we serve.

You can see in earlier years we had a much heavier emphasis in enforcement and a much lesser emphasis in service. In fiscal year 1990, which is a continuation of the trend I mentioned earlier, we see ourselves in kind of a 60–40 ratio between enforcement and service.

We still believe that in the long-term interest of tax administration that this is where we have to be to ensure voluntary compliance from the taxpayers that we serve, and also to be sure that we are not cutting back in our attempts to get the revenue that is needed for the Government to operate. So the balance is extremely important.

Of our 1984 budget, just to give you an idea, there was a budget of $3.6 billion; $1.1 billion was spent in service programs and $2.5 billion over on the enforcement side. In 1990, from the $5.5 billion that we are asking for, we have got $2.2 billion, or 40 percent, in service, and $3.3 billion, or 60 percent, on the enforcement side of it.

Our budget really has grown and I think that work that we have done in building back our service centers to where they are doing the job has paid off—as I reported earlier, we are having a good filing season in the returns processing area. And in our emphasis on improving compliance—we still feel we are on the right track.

PREPARED STATEMENT

Mr. Chairman, that concludes my remarks and I welcome any comments or questions that you and other members of the committee would have.

[The statement follows:]

STATEMENT OF MICHAEL J. MURPHY

Mr. Chairman and members of the subcommittee: I am pleased to come before this subcommittee as Acting Commissioner of Internal Revenue to present the Service's FY 1990 budget request. Having accompanied Commissioner Gibbs when he testified before this subcommittee last year, I am well aware of the interest you have in ensuring an effective and fair tax administration system. In my testimony, I

will cover what we at IRS, with your support, aim to accomplish in 1990 and what our concerns are in 1989.

First, I want to introduce my colleagues, our Deputy Commissioners Charles Brennan for Operations and John Wedick for Planning and Resources, our Associate Chief Counsel Richard Mihelcic, and our Finance Division Director Stephen Taylor. We will be pleased to answer any questions that you may have at the conclusion of my testimony.

1988 AND 1989 FILING SEASONS

Last year when Commissioner Gibbs appeared before this subcommittee, he spoke of the importance of proper funding for taxpayer service and tax processing in order to ensure the success of tax reform. FY 1988 proved to be a particularly challenging year for IRS, putting into place the extensive changes the Tax Reform Act has brought about and informing and assisting taxpayers.

I am happy to report that we successfully met the challenge. Despite the 25th major tax law change in the last 27 years, we were able to process the 184 million returns we received timely and accurately. We undertook extensive tax reform training for our workforce. We revised or wrote hundreds of forms and publications and made them available to the public earlier than ever before. We rewrote and tested our computer programs and handbooks for our service centers, changed our taxpayer assistance training materials, recruited and trained new taxpayer service personnel, and extended the toll-free telephone and walk-in hours for taxpayer assistance. We joined forces with the Ad Council to inform the public of the tax law changes and advise them to think about taxes early. Successful implementation of tax reform couldn't have been accomplished without the budget support we received from this subcommittee.

The 1989 filing season appears to be going fairly smoothly for taxpayers and the IRS. Again this year in preparation for the current filing season, IRS utilized a national office/field executive committee to review plans for, and readiness of, every operation that is necessary to carry out a successful filing season. These plans and reviews started almost a year in advance of the filing season and were updated to accommodate tax law changes brought about by enactment of the Technical and Miscellaneous Revenue Act [TAMRA], including the Taxpayer Bill of Rights and the Omnibus Anti-Drug Abuse Act of 1988 in November 1988. Enactment of TAMRA, for example, necessitated changing forms and instructions after the targeted printing due date had passed. Because of our planning efforts, we were able to rewrite the forms and have them available for taxpayers at the beginning of the filing season.

FISCAL YEAR 1990

As you are aware, the President's FY 1990 budget proposes freezing, at FY 1989 levels, the aggregate spending of domestic programs not directly associated with one of his five broad initiatives. Although our programs are included in this category, the President has emphasized that the freeze is flexible, allowing some programs to increase while others are reduced.

We expect that final decisions about whether to increase or decrease specific programs within this freeze category will be determined through top level deliberations and negotiations between the administration and Congress. Today, we are prepared to discuss a number of initiatives, program reforms and/or reductions to FY 1989 spending levels that were presented in the budget submitted in January.

It should be emphasized that the President has not proposed that funds be appropriated for these particular adjustments. Therefore, our discussion must be viewed as providing the committee with information on "candidate" areas which could be increased or decreased within the context of the overall freeze.

The Reagan budget for FY 1990 for IRS totals 115,110 average positions and $5.5 billion, an increase of 2,052 average positions and $289 million, over FY 1989. A significant portion of the requested increase in our budget proposal represents requirements to cover certain unavoidable cost increases and workload growth. These are largely offset by major reductions resulting from operational savings and information systems project reductions.

As we look to 1990, our first priority is to maintain current program levels and address workload increases. In 1990, we will: Process 196 million tax returns; issue 84 million tax refunds; process 1 billion information return documents; examine 1.5 million tax returns; secure 4.5 million delinquent returns; and respond to 68 million taxpayer service requests for information, including toll-free telephone calls, walk-in

service, and recorded messages, gross tax collections for 1990 will total over $1.1 trillion, with refunds totaling $107 billion.

We have made considerable progress in a number of areas, our service centers, taxpayer service and automation, which we need to continue. The 1990 budget does not reflect an across the board addition to all programs but instead tries to deal with a few specific areas: To provide better service to taxpayers, improve tax enforcement, and continue the modernization of our computerized information systems.

Under Commissioner Gibbs' leadership, we have accomplished many things during the last two and a half years, foremost among them the successful implementation of the Tax Reform Act. We have placed needed emphasis on tax enforcement programs, strengthening the examination and accounts receivable programs through additional investments in compliance programs designed to collect additional tax revenue and improve compliance with the tax laws. Yet, we have also addressed the needs of the service side of the organization, making strides to assure that our tax processing and taxpayer service programs are at a reasonable level.

PROVIDE BETTER SERVICE TO TAXPAYERS

Providing assistance to taxpayers to help them meet their tax obligations continues to be one of our highest priorities. In order to effectively do this, we provide a balanced program of taxpayer services. The major component of our program continues to be our toll-free telephone system. For 1990, we will answer some 38 million calls and will provide access to 85 percent of most callers within two call attempts. I am pleased to say that we will also be continuing our programs in understanding taxes, tax counseling for the elderly, and volunteers in income tax assistance.

The Tele-tax system provides simple tax law and refund inquiry information to taxpayers through over 100 recorded telephone messages, freeing up taxpayer assistors to answer more complex technical tax law inquiries and resolve tax account problems. Some 14 million Tele-tax calls will be answered in FY 1990. A requested $653,000 for additional circuitry for Tele-tax processors will enable us to handle even more Tele-tax calls in the future. The separate toll-free service already established for ordering tax forms and publications from three centralized distribution sites will also be continued.

One thing we've learned is that we still need to do more to improve the accuracy and the overall quality of our service to taxpayers. The quality of assistance provided on the telephone system is an area of continuing concern and emphasis. Since 1986, we have increased staffing, the number of toll-free lines, and the amount of training our telephone assistors receive. We have also changed the mix of employees increasing the proportion of permanent to temporary employees and upgraded their positions. We are putting more experienced full-time assistors instead of seasonal workers on the telephones and taking sufficient time with taxpayers on the telephone to fully understand their questions. We seek to reduce the turnover that has been a problem for us.

During the 1989 filing period, we are also taking additional steps to attempt to increase the accuracy of the responses we give. One of these steps is the establishment of regional diagnostic centers that will analyze problems for specific answering sites and give quick feedback on efforts being made and how they can be corrected. We have also continued to place test calls using our integrated test call survey system and provide the results from these calls to the diagnostic centers.

Analysis has shown that the question and response transaction between a taxpayer and an assistor is extremely complex. IRS recognizes the involved nature of even seemingly straightforward taxpayer inquiries. Taxpayers bring individual facts to a tax question, and each of the answers which telephone assistors provide must address taxpayers' specific situations. These and other factors provide challenges to assistors and management staffs alike in their efforts to provide the best possible service to taxpayers every day.

Ultimately, the quality of assistors' work relies on the material they have available to them and how well they are able to research that material. The automated taxpayer service system prototype, now being tested in our Dallas District, will automate the reference material used by assistors. This year we have 40 automated work stations in operation. Next year we move toward automating the entire call site and look toward eventual nationwide implementation of the system.

While taxpayer service is not meant to be all things to all people, and will never serve as a substitute for sophisticated tax help, we recognize that it is necessary to make significant changes in order to be in a position to render accurate, complete responses to the public's tax law questions.

We have a lot of work still ahead of us. We need a more permanent, better trained taxpayer service work force to reduce the attrition rate, thereby raising the quality of the assistance we provide to taxpayers. We need to have the staffing to support adequate time with taxpayers on each telephone call. The requested increase in 1990 of 1,300 average positions and $56 million will assist IRS in reaching these objectives.

TAX PROCESSING

Our service centers performed very effectively in 1988, giving taxpayers a smooth filing season. we realize, however, that there are areas where improvement is needed, particularly the clarity and accuracy of the correspondence sent to taxpayers by our ten tax processing service centers. Concerns about our correspondence have also been raised by Congress and the General Accounting Office.

In order to reduce error rates in our correspondence, we are instituting additional managerial reviews, reducing the span of control and improving classroom and on-the-job training for employees handling taxpayer correspondence in order to reduce repeated correspondence from dissatisfied taxpayers.

A program analysis system was implemented nationwide in January 1988 to assist in identifying and correcting specific processing errors. Besides analyzing the accuracy in handling inquiries and adjusting accounts, the program also analyzes the type of errors being made, the reasons for them, and follows up to ensure that appropriate actions have been taken. We plan to expand this system to analyze responses to all correspondence issued by the service, not just correspondence related to adjustment cases.

A new software system for preparing taxpayer correspondence is scheduled for testing in 1989. The correspondence system we now use makes it difficult for tax examiners to tailor responses to individual taxpayers. In addition, examiners are unable to view an entire letter once it has been composed. The new system will address both these problems and is flexible enough to enable examiners to respond to multiple inquiries from taxpayers. We plan to implement this system nationwide in early 1990.

We have also made a commitment to reconciling wage discrepancy cases through the combined annual wage reporting program. Last year, Commissioner Gibbs signed an agreement with Social Security Administration Commissioner Hardy to reconcile additional wage data cases. The resources requested will enable IRS to reconcile up to 175,000 cases annually that have benefit implications for future retirees and that cannot be resolved by the Social Security Administration. We will also work an additional 332,000 tax-related cases, producing almost $70 million in additional revenues.

FORMS TESTING

We are continually seeking new and effective ways to gain a better understanding of what taxpayers think of our forms and what problems they have with them. We're conducting a series of "town meetings" around the country this year to get public comments on our forms and instructions.

Beginning in 1987 and continuing this past year, we have conducted focus group testing which has enabled us to make several important changes to our forms before they were mailed to taxpayers. We have found that taxpayers understand our forms better, taxpayer errors are reduced, and the pipeline processing of returns proceeds more smoothly. This experience has shown us the need for a long range testing program to assure that paperwork burden on taxpayers is kept as low as possible. The $1.3 million requested in the budget will cover the cost of testing contracts and additional staffing for the tax forms development unit.

PROBLEM RESOLUTION

The Problem Resolution Program (PRP) has grown in importance and impact since its beginning in 1977, handling some 400,000 cases a year, ensuring the protection of taxpayer rights and resolution of taxpayer problems not resolved through normal channels. This past year we issued Publication 1, a step-by-step guide to taxpayers' rights.

Even before the Congress passed the Taxpayer Bill of Rights as part of the Technical and Miscellaneous Revenue Act, IRS had been taking steps to enable taxpayers to get help in stopping IRS enforcement actions when some combination of factors or a delay in IRS action would cause a significant hardship to the taxpayer. The Taxpayer Bill of Rights codified procedures we instituted in February 1988 that

gave problem resolution officers increased authority to intercede on behalf of taxpayers. Taxpayers may now apply for hardship relief by completing Form 911. Problem resolution officers have the authority to issue taxpayer assistance orders which allow additional time for review of the case by PRP to decide if the original action is proper, before an enforcement action is taken. Attempts will still be made to resolve the problem through normal channels. An application for relief is not meant to be a substitute for the normal appeals process through which a taxpayer and IRS seek to resolve disputes over what taxes may be due.

The authority of problem resolution officers has also been enhanced in other areas. They can now, in certain circumstances, approve replacement for lost or stolen refund checks, substantiate credits to a taxpayer's account where he furnishes timely proof of payment, and abate certain penalties.

IMPROVING TAX ENFORCEMENT

IRS is proposing improvements to selected tax enforcement activities that will result in additional estimated tax collections of $318 million in FY 1990. These receipts are also included in the Bush budget. We will contact an additional 183,000 taxpayers, by means of correspondence audits, yielding an additional $101 million in taxes collected in FY 1990. An additional 529 average positions and $27.8 million, will enable IRS to close 21,000 additional unpaid tax accounts and collect $107 million in additional tax revenues.

With a growing number of taxpayers living abroad, we must expand IRS tax compliance programs overseas in order to ensure those taxpayers pay their fair share of taxes. With an additional 83 average positions and $6 million, we will collect an estimated $29 million in additional taxes in FY 1990 from taxpayers residing outside the United States.

The Tax Reform Act of 1986 contained a provision requiring taxpayers to report the Social Security numbers of all dependents age 5 or older. The budget requests 47 average positions and $1.4 million to ensure compliance with this requirement. This measure should result in an additional $12 million in FY 1990 tax collections.

The Tax Reform Act also imposed new requirements on tax exempt organizations relating to the coverage of employees and discriminatory rules covering contributions and benefits on annuity arrangements under Internal Revenue Code Section 403(b). We are developing a program to provide ruling guidance and assist organizations in the submission of an estimated 30,000 new plans as a result of these new rules.

MAINTAINING IRS INTEGRITY

The nature of IRS' mission requires us to collect the proper amount of tax revenues at the least cost to the public in a manner that warrants the highest degree of public confidence in our integrity. We set high standards of employee conduct in order to preserve public confidence.

The internal audit and security programs take the lead in this area. Resources for these programs have been restricted to the same level for the past ten years. We are falling behind in our ability to detect and combat bribery, extortion and other violations of law involving IRS employees. The additional resources we've requested for these programs in 1990 will allow more vigorous and timely pursuit of investigations and serve to deter anyone contemplating criminal misconduct against IRS.

IMPROVING INFORMATION SYSTEMS

IRS's FY 1990 information systems budget provides for essential investments in 1990 to continue modernization of our outdated and inefficient computerized tax processing systems. Modernization of IRS's information systems and increased capacity is of critical importance as we move into the 1990's. Faced with a growing workload and ever changing tax laws, there is no hope of meeting those demands without sustained investment in information systems.

Automation expenditures now represent one in every five and a half dollars we spend. It is important that we put this in perspective. We now classify expenditures such as telecommunications as information systems items, something we did not do in the early 1980's. Aside from these technical adjustments, we've made a strong commitment to improve service to the public, a goal that can't be met without major technological investments. Nonetheless, the IRS has made substantial increases in ADP investments.

Electronic Filing System (EFS) is an example of how our efforts to improve taxpayer service have been achieved through computerization. The concept for EFS

was tested in 1986, proved successful in eliminating a highly labor intensive process, and was expanded this filing season to 48 IRS districts. Taxpayers use the system because they receive their refunds faster. In fact, 583,000 utilized the service in 1988. As of February 24, we're up to 664,593 electronically filed returns for the 1989 filing season.

We've begun using technology to replace manual processes in our enforcement functions. We're also using new technology to reduce communication costs and increase the efficiency of the distribution of forms and publications to taxpayers, through centralized distribution points.

The IRS information systems budget is not one of growth alone, but reallocates ADP dollars to our highest priority projects. The FY 1990 budget concentrates ADP dollars on the redesign of our tax processing systems, slowing down or delaying the initiation of other projects, such as the Automated Examination System, in order to stretch ADP dollars to resolve our capacity problems. In fact, while our total requested increase for new efforts amounts to $102.3 million, our proposed reductions are $111.4 million.

As we look to the future, our focus is on putting into place the building blocks of a new, redesigned tax processing computer system. Important aspects of this redesign need to go forward in 1990, for which our budget request provides necessary funding. The current system is too outdated, too limited in capacity, to do the job beyond the mid 1990's. The goal of our redesign efforts is to remove the barriers to providing the quality or level of service that we and our customers, the American taxpayers, feel we should be providing.

We currently provide taxpayers the assurance that the information we legally gather will be treated with the highest degree of respect and privacy. The IRS has a long history of protecting taxpayer information from inappropriate use and we are planning now to ensure the new system will continue this tradition. In fact, we want the new system to contain every possible security measure in order to protect taxpayer information and make sure it is accurate.

As promised in our testimony last year, we have completed a comprehensive management plan that has been reviewed by the Treasury Department and the Office of Management and Budget. The plan describes what we would like our system to look like and the steps to put the final architecture into place. We have also developed a comprehensive project management guide which describes the responsibilities of IRS project managers. These products have been developed because we recognize the necessity for thorough, long and short-term planning.

With our current system, many taxpayers call with an account problem, only to be told that the information necessary to resolve their case is available at another IRS office. The taxpayer must then follow-up with a letter in an attempt to resolve their problem. In 1988, 6.9 million notices were issued to taxpayers. We received 1.8 million contacts regarding these notices. After the redesigned system is operational, IRS will be able to help taxpayers at the first point of contact.

Our present system is paper intensive. It often takes up to six weeks to retrieve a copy of an original tax return. In 1988, copies of over 16 million returns were requested from the Federal records centers and another 21 million from IRS service centers. Under the redesigned system, electronically stored tax return information will be available immediately.

Under the current system many steps in the processing of a tax return are done manually with a great number of errors. Automation of these processes will result in a system less susceptible to error and allow us to be more responsive to taxpayers.

The modernization process is well underway. As promised last year, we have developed an acquisition strategy plan which is in the final clearance stage. The plan describes the acquisition framework we will follow to accomplish the modernization effort. More specifically, we are developing and refining the requirements for two critical design and acquisition efforts that will dramatically enhance the way the IRS does its work: the corporate, or central, files on-line project and the service center support system.

The corporate files on-line project will take the tax data that IRS employees need and make it accessible to them through a telecommunications network in seconds versus the current hard copy processes that take weeks. This will mean better service to the taxpayer, quicker processing and fewer IRS errors in all of our work.

The service center support system acquisition effort addressed the projected service center capacity gap for the mid-1990's which was identified by the General Accounting Office. Through this acquisition, we will provide considerably more capacity for the entry pipeline for tax return processing and we will gain the capability of building a set of systems that will substantially automate manual processes which

now occur at service centers, regional and district offices. Our capacity problems have been so severe that our efforts have been concentrated on conserving capacity rather than enhancing performance. The service center support system will enable us to put more emphasis on automating work processes and providing better, quicker and more error-free service to taxpayers while collecting the appropriate revenues. Our goal is to install these systems during 1991.

The plan we have envisioned will not be operational over night. The final system will be phased in over a period of 8 to 10 years. Installing such a large system in this fashion minimizes the risks involved. To further reduce risk, the current system and newly installed systems will be run simultaneously. Taxpayers can then be assured of continued service while we are testing the functionality of new systems. We want to avoid the problems associated with the 1985 filing season as much as you do.

It is important to understand that our redesign effort is about more than replacing an antiquated tax administration system that is reaching its maximum capacity. In redesigning our systems, we are taking a hard look at everything we do and are asking ourselves how to use technology to provide more timely and better quality service through a coordinated systems planning and development process that embraces information technology.

QUALITY

In terms of tax administration for the future, we believe the more comprehensive our approach, the more workable our solutions will be. Our focus is to balance enforcement strategies with customer service and taxpayer outreach strategies, redesign a tax system with tax administrators' and customers' best interest in mind, moving quality to the top of the IRS' agenda.

By quality I mean applying the analytical techniques that private industry is using to isolate and identify problems and develop comprehensive solutions. One important ingredient of our quality effort is a joint agreement reached in October 1987 between National Treasury Employees Union officials and IRS management, an agreement that translates into joint membership on local quality councils in IRS offices across the country. Members are working hard at identifying local problems and solving them.

Several IRS quality improvement projects have been singled out for awards and related recognition by the Office of Management and Budget (OMB) and other organizations concerned with quality. As an example, our Fresno, California Service Center, has been selected by OMB as a prototype organization.

As a result of quality improvement efforts at the Fresno Service Center this past year: 13,000 taxpayers had their questions immediately answered by employees in the telephone contact unit. In the past, these same taxpayers would have had to put their questions in writing and wait several weeks for a response; 30 percent fewer taxpayers had to contact IRS looking for their refund because quality improvement efforts throughout the center reduced refund processing time by two weeks; and problem resolution cases are resolved in an average of 11 days, half the time it took 1 year ago. The center has also become more adept at identifying these cases, reducing the number of PRP cases that the district offices receive from the center.

Our commitment to quality throughout IRS aims at getting the job done right the first time, improving the quality of the products and services we are providing, and measuring our performance by the standards of our customers, the American taxpayers.

Commissioner Gibbs recently selected Mr. Al Kolak as Assistant to the Commissioner-Quality.

DRUG ENFORCEMENT

IRS is a major partner in the war against drugs. Funding for anti-drug activities is not includes as part of the Bush budget's flexible freeze category. President Bush's priority programs include slightly over $71 million for IRS drug enforcement activities. Fourteen million dollars of these funds would be transferred to the Justice Department to fund IRS's share of the Organized Crime Drug Enforcement Task Force (OCDETF) operations. We participate in 2 out of 3 OCDETF investigations as well as operation alliance, an effort to combat drug traffic along the Nation's southwest border.

In FY 1988, 765 OCDETF investigations were initiated. Since 1983, IRS has recommended 3,500 prosecutions and obtained 2,856 indictments and 2,089 convictions.

The processing of currency transaction reports, which trace transactions of deposits over $10,000, is significant to IRS efforts against national and international nar-

cotics traffickers and money launderers. IRS will devote 260 average positions and $23 million to money laundering investigations in FY 1990, with another 512 average positions and $15 million directed at processing the currency transaction reports.

In order to continue our high level of participation in these special enforcement programs, we have continued to shift funds from more traditional criminal tax investigation programs. We are also undertaking new responsibilities under the Omnibus Anti-Drug Abuse Act of 1988 for which no additional funds are budgeted.

RECENT LEGISLATION

Aside from the Omnibus Anti-Drug Abuse Act of 1988, recent passage of the technical and miscellaneous revenue act of 1988, which includes the taxpayer bill of rights, and the Medicare Catastrophic Coverage Act of 1988 will have an impact on IRS operations. We are proceeding with implementing those laws. We are in the process of analyzing the impact of this new legislation.

In addition, the recent budget proposals made by President Bush include tax law changes for child care, energy tax incentives, research and experimentation, enterprise zones and capital gains. If these are enacted, they would have an impact on IRS operations and resources.

FY 1989 CONCERNS

The IRS' financial plan for FY 1989 gives priority to assuring adequate resources for the filing season. This includes applying resources to achieve high responsiveness and accuracy in the taxpayer service program as well as effective distribution of forms and instructions and processing returns promptly and accurately.

Congress appropriated 113,811 average positions and $5.2 billion for IRS operations for FY 1989. IRS faces absorption of significant operating costs this year including $85 million for increased pay costs as a result of the January 1989 pay raise, the postal rate increase that went into effect last spring and sharply rising health and retirement contribution costs. Availing ourselves of geographic special salary rates in order to attract and retain employees in certain categories, has resulted in increased unbudgeted pay costs.

In order to reduce expenditures in FY 1989 so as to absorb increased costs, we are cutting back expenditures on travel, training, acquisition of ADP equipment and supplies. A hiring freeze has been placed on most IRS occupations. We are also deferring, for 1 year only office relocations and renovations, reducing telecommunications expenditures, and delaying the filling of vacancies.

CLOSING

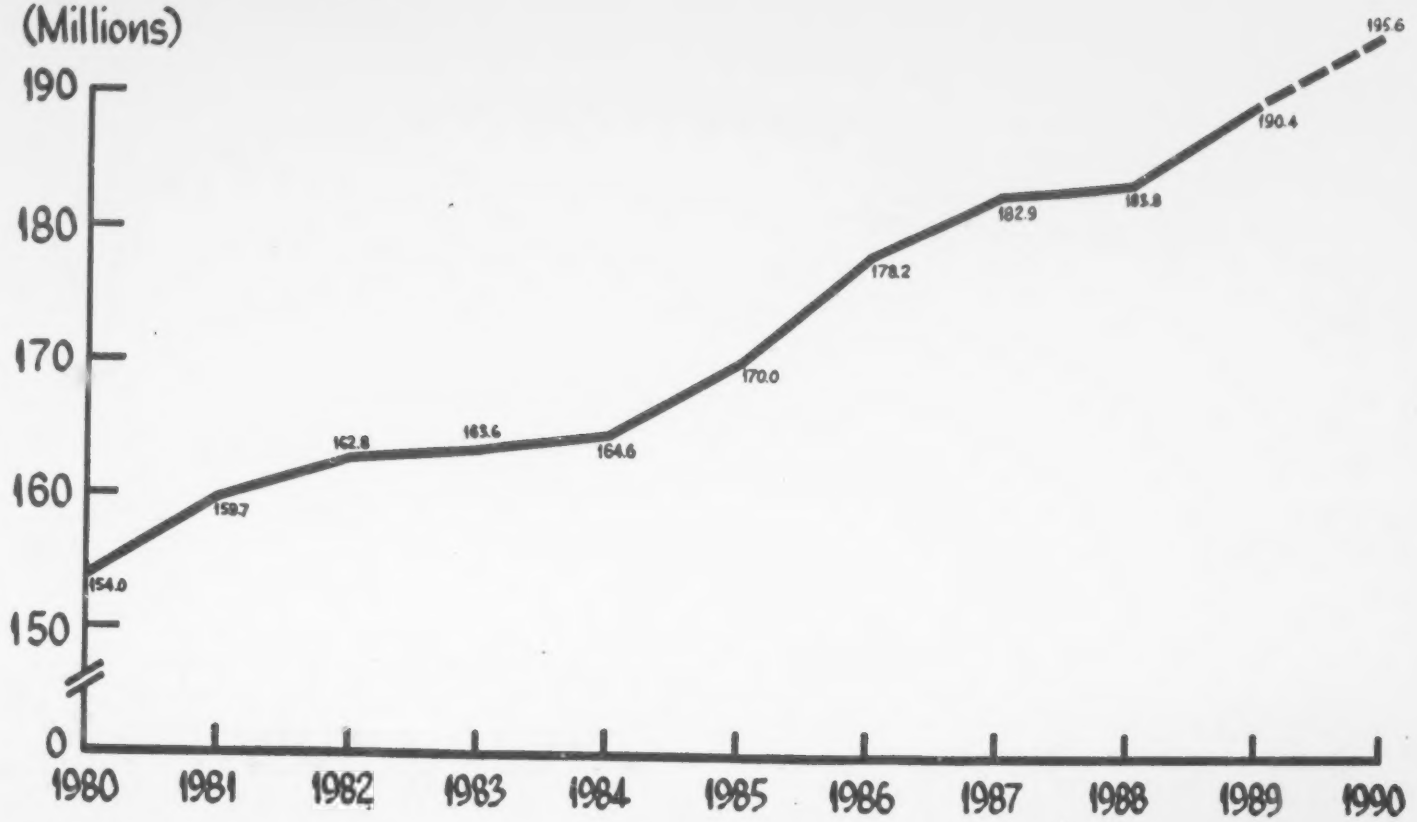
Maintaining a balance between service to taxpayers and enforcement of our tax laws continues to be our objective. The FY 1990 budget carries forward this notion of balance. We must not backtrack on the commitment we've made to improving responsiveness to the public. I look forward to continuing the dialogue you had with Commissioner Gibbs on all areas of tax administration.

Mr. Chairman, this concludes my prepared remarks. I will be pleased to answer any questions you or the members of the subcommittee may have.

Internal Revenue Service Program Responsibilities

	FY 1990
Tax Returns Processed	196 Million
Information Returns Processed	1.0 Billion
Refunds Issued	84 Million
Taxpayers Assisted	68 Million
Returns Examined	1.5 Million
Delinquent Accounts Collected	3.0 Million
Delinquent Returns Secured	4.5 Million
Gross Revenue Collections	$1.1 Trillion
Refunds	$107 Billion
Net Tax Revenues	$993 Billion

Returns Filed

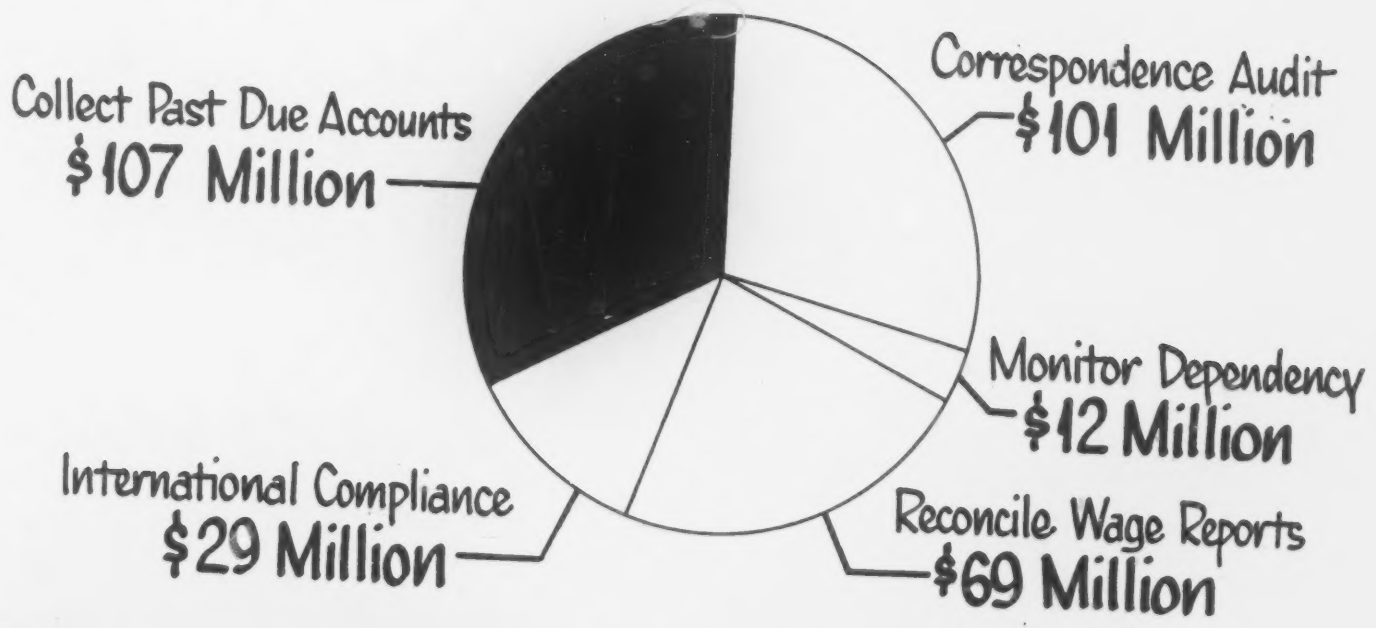


679

Taxpayer Service-
Fiscal Year 1990 Workload

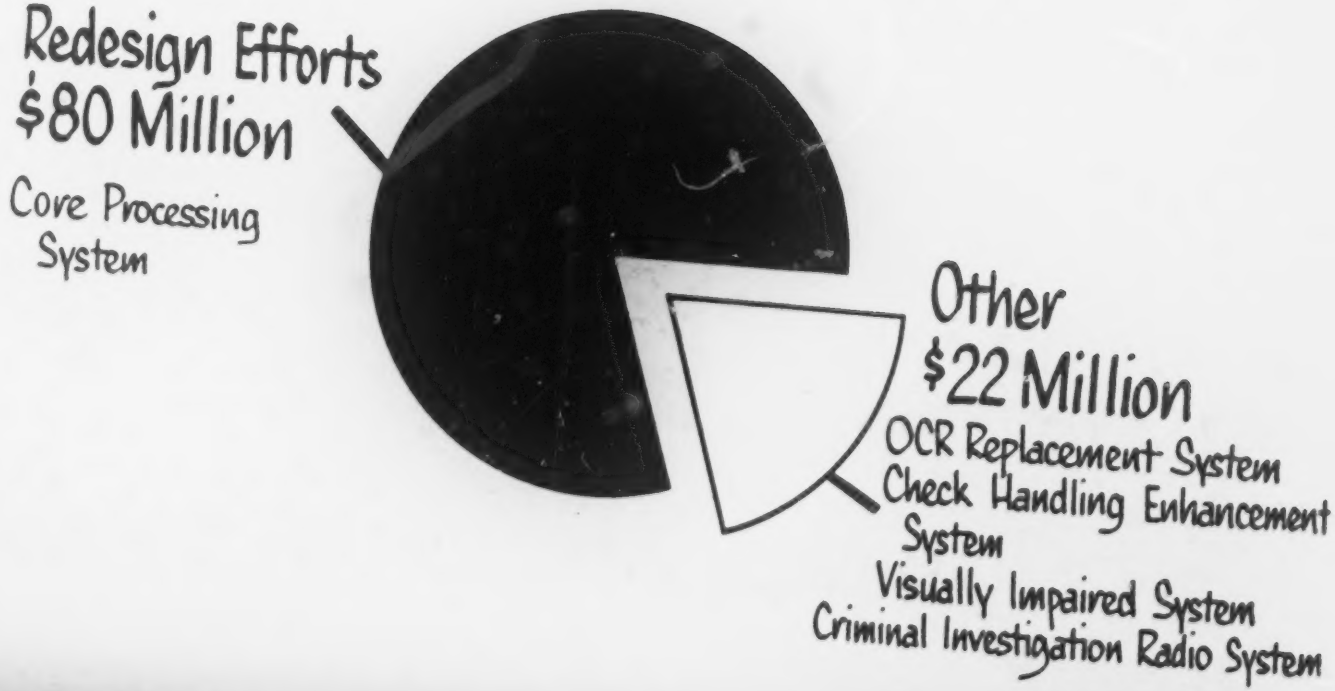
	Millions
Telephone Answering	38.8
Office Visits	7.0
Correspondence	0.2
Recorded Messages	14.0
Outreach	1.5
VITA/Tax Counseling	2.8
Taxpayer Education	4.1
Total	**68.4**

Improving Tax Enforcement Activities



Collection of $318 Million in Additional Revenue

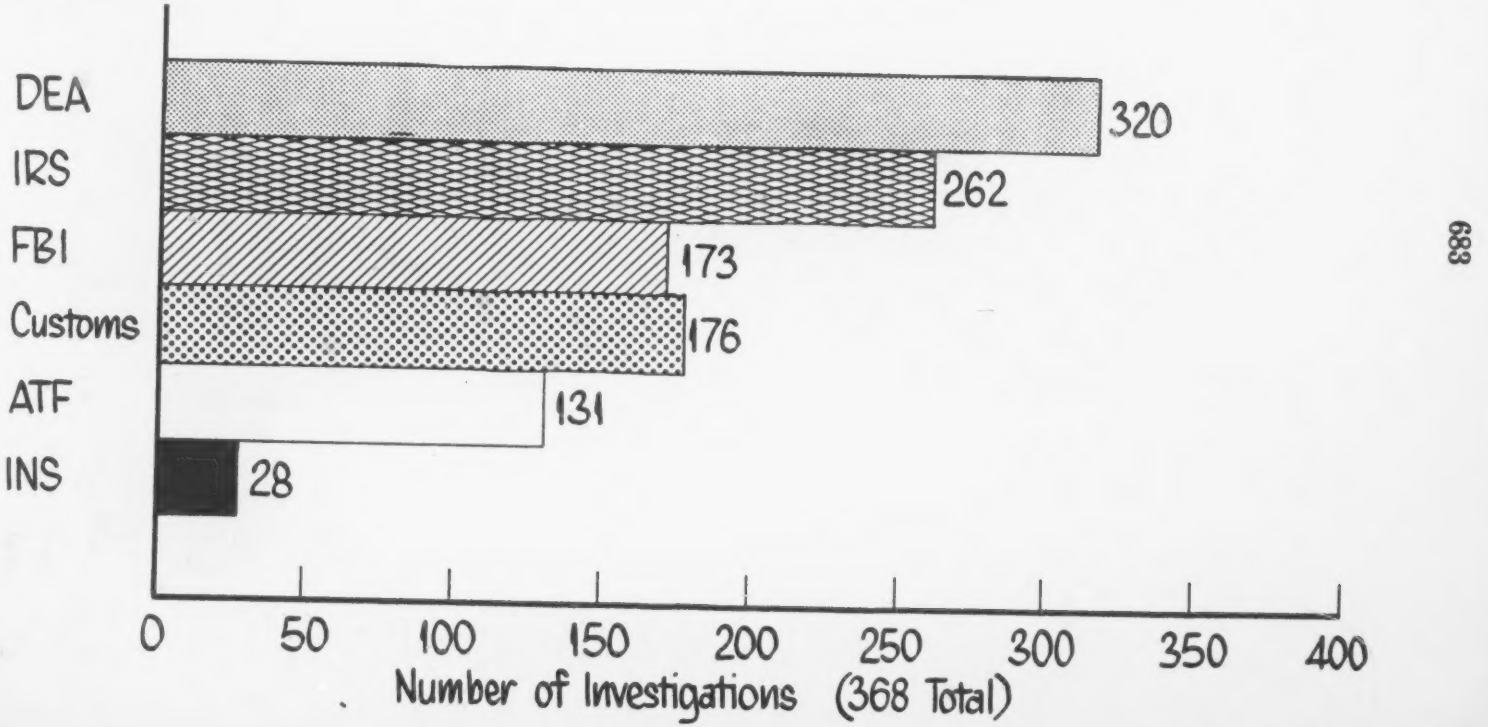
Information Systems Initiatives
FY 1990



Organized Crime Drug Enforcement

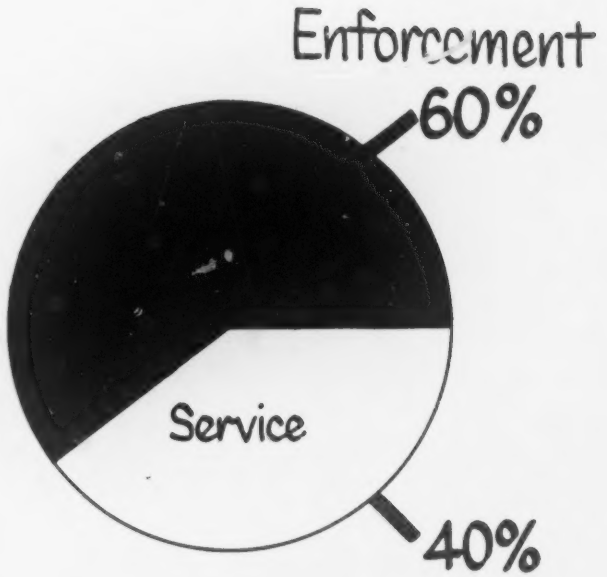
Agency Participation

Agency FY 1987



Service and Enforcement
FY-84 vs FY-90

FY-84



FY-90

QUESTIONS FROM THE SUBCOMMITTEE

Senator DECONCINI. Thank you, Mr. Murphy. We have a lot of questions.

Does the ranking member have any opening statement?

Senator DOMENICI. No; I am glad we are getting to questions.

Senator DECONCINI. We will.

Senator DOMENICI. Mr. Chairman, I have to be somewhere at 11 o'clock and I do have a few questions, so I would appreciate your yielding to me.

Senator DECONCINI. I will yield to you in just a couple of minutes.

IRS ALL EMPLOYEE MEMO

Mr. Murphy, the memo you gave us a copy here of from Mr. Gibbs, that is public information?

Mr. MURPHY. Absolutely.

Senator DECONCINI. No reason not to put that in the record, is there?

Mr. MURPHY. None whatsoever. In fact, I would appreciate having it in the record.

[The information follows:]

MEMO FROM LAWRENCE B. GIBBS

FEBRUARY 22, 1988.

All Employees:

I know all of you have heard about the Omnibus Taxpayer Bill of Rights, which Congress passed this last November. Because this new law will affect the way you do your job and the way our customers—American taxpayers—view us, I want you to know what the law says.

You may remember that some of the provisions in early versions of this law were written in a way that caused us concern. However, we have always strongly endorsed the need for taxpayers to know what their rights are and for IRS employees to protect the taxpayers' rights. I am satisfied that, as revised, the law strikes a proper balance between taxpayers' rights and responsibilities. Moreover, it complements our emphasis on improving quality and customer service.

Several current IRS administrative practices have been made into law by the Omnibus Taxpayer Bill of Rights. One example is Publication 1, *Your Rights As A Taxpayer,* which we made available to taxpayers in November. Another is the development of procedures for the Taxpayer Ombudsman and Field Problem Resolution Officers to issue Taxpayer Assistance Orders to help taxpayers with problems with the IRS.

Throughout the implementation planning process, care has been taken to make sure that our actions agree with the spirit, as well as the letter, of the law. I know that I can count on each of you to maintain this commitment as you put our plans into effect.

So that you will know what this new law provides, I have enclosed a summary of its key provisions. You will be receiving more information in a video tape and in training from your function.

With best regards,

Sincerely

LAWRENCE B. GIBBS.

Enclosure.

THE OMNIBUS TAXPAYER BILL OF RIGHTS—A SUMMARY OF KEY PROVISIONS

The IRS must continue its current practice of informing taxpayers of their rights and IRS obligations. This is being accomplished by the distribution of IRS Publication 1, *Your Rights As A Taxpayer.* The new law requires the IRS to give copies of this publication to all taxpayers contacted about the amount of tax

they owe or the collection of taxes owed. The IRS will also give copies of this publication to taxpayers to advise them of their rights at or before certain in-person interviews.

Under the new law, taxpayers may continue to make audio recordings of certain in-person interviews. Also, taxpayers may not be required to accompany their authorized representatives to interviews without an administrative summons.

The law continues the IRS practice of allowing taxpayers to suspend an interview to consult with an authorized representative.

Under the new law, the IRS must abate penalties or additions to tax caused by written advice given by the IRS that is wrong. This expands current IRS administrative practice.

The Taxpayer Ombudsman and Problem Resolution Officers may issue Taxpayer Assistance Orders to stop or change IRS actions that cause significant hardship to taxpayers. Under the new law, representatives as well as taxpayers may apply for these. New IRS Form 911 is the form taxpayers should use when applying for a Taxpayer Assistance Order.

Current IRS Policy Statement P-1-20 provides that tax enforcement results may not be used to evaluate IRS enforcement officers, appeals officers or reviewers. While this Statement remains in effect, the new law provides that the IRS may not use tax enforcement results, such as amounts of tax dollars collected, to evaluate Collection enforcement employees.

The IRS current administrative practice of considering installment payment agreements for taxes owed is now authorized by the new law. The only change is that the IRS must now give taxpayers 30 days notice before changing or revoking an installment agreement in certain situations.

The new law requires the IRS to rewrite some of its notices to make them more easily understood by taxpayers. Specifically, tax due and deficiency notices must at least describe the basis for and amounts of tax, interest and penalties. These notices are being reviewed and revised.

An IRS Assistant Commissioner for Taxpayer Services must be established under the new law. The offices that will be under this new Assistant Commissioner will be announced by May 9, 1989.

The period during which a levy may not be made following notice of intent to levy is extended by the law from 10 to 30 days. Certain exemptions from levy are increased and District Directors must now approve the seizure of a personal residence. Also, banks must hold levied accounts for 21 days after notice of levy is served to allow a taxpayer to prove the levy is improper.

The new law requires the IRS to provide a procedure for taxpayers to administratively appeal liens made by the IRS. This procedure will be administered by Collection's Special Procedures function.

Current law allows a court to require the government to pay a taxpayer's costs and attorney fees when the IRS' position in court was not substantially justified. The new law provides that awards of costs and fees to taxpayers now include administrative, as well as court, proceedings.

The new law permits taxpayers to sue the IRS for not releasing a Federal tax lien within 30 days or if they are harmed by unauthorized actions. IRS employees are not personally liable under the new law.

REDUCING INCORRECT INFORMATION PROVIDED TO TAXPAYERS

Senator DECONCINI. Your 1990 budget proposes an increase of $289 million, as we have gone over, and I am pleased to see that $72.8 million of this increase is in improved taxpayer service.

Your justification states that you plan to increase taxpayer service specialists by 932 positions, and taxpayer service representatives by 798 positions in fiscal year 1990. How will these additional positions help to reduce the incorrect information being passed along to taxpayers, and reduce the time it takes to get service representatives on the telephone? Have you analyzed that?

Mr. MURPHY. Well, Mr. Chairman, the——

Senator DECONCINI. Are you just putting more people in there in the hope that it will work?

Mr. MURPHY. Well, we have really got a few things. The basic ones are the improvement in the training, Mr. Chairman. We have

about 515 positions there; and better supervision. It is essential that the line managers are involved in monitoring that work and providing whatever guidance they can to the assistors.

Quality control through quality assurance—they perform that same function. Remember, I mentioned the diagnostic centers moving that information right to the field for an immediate turnaround.

Really, an important item is what I mentioned earlier. We are finding that our assistors, when they get a call from a taxpayer, just can't be so pressured to get off the line right away. They need to have more time to give the proper answer and to probe the taxpayers, because it is the lack of probing that, I think, leads us to the problems we have where we give incorrect answers.

TAXPAYER SERVICE ACCURACY RATE

Senator DECONCINI. My next question deals with that, your accuracy rate. The GAO study last year indicated that the accuracy rate of the information you were passing on to taxpayers was 65 percent, versus the 72 percent figure found by the IRS.

How do you explain that 30 to 35 percent of the public is getting wrong information, and what is the reason for this error rate? I find it really disturbing to have that kind of a huge figure, as we have discussed before, but maybe you want to explain that, if you have an answer.

Mr. MURPHY. OK. Well, let me start off and maybe I can get a little help on that one, Mr. Chairman. As far as that variance, we are well aware of that, and that was the reason why we have been spending the time that we have, with the cooperation of GAO, in coming up with a system that truly can permit us to measure the accuracy.

We have a system called the integrated test call service that permits us to do that, and that is the one that I am citing from this year. It was really just started last year and GAO was just getting involved with us on it, but we are looking toward agreement on what that is, even though the GAO may do some independent parts on it. So that is just a little bit on the difference.

As far as your major question——

Senator DECONCINI. What is your objective to get it down to?

Mr. MURPHY. You mean as far as——

Senator DECONCINI. What is tolerable from your point of view?

Mr. MURPHY. Ideally, we would love to get somewhere above that 80-percent accuracy rate, but I just use that, you know, in response to your question.

Senator DECONCINI. That is your objective?

Mr. MURPHY. We would like to get there, Mr. Chairman. Obviously, as I reported, we are not there yet, but——

Senator DECONCINI. How much of that do you think has to do with your people not being trained or not knowing what they are doing when they provide incorrect advice?

Mr. MURPHY. Well, I think, as I said before, training can be improved. As you know, we are dealing with a law that has been changed somewhere in the neighborhood of 138 times in the last

several years, and one that has been changed quite a bit even since tax reform 1986.

I am not just saying complexity and change is the only area, but I think some of the other areas I mentioned earlier there—the fact that we are trying to get taxpayers to take advantage of Tele-Tax, for one thing, to be prepared when they ask questions of us, and I am not trying to load all this on to the taxpayer, Mr. Chairman, but there are a number of things that are taking place that I think give us the opportunity to improve on that.

So I would rather just say to you, we have a problem that we are trying to deal with. There are some areas where taxpayers are making more mistakes than in others. That rate that I give you spreads across many, many categories.

For example, we use 62 different questions in our calls that go out, and we will be making 20,000 of those calls this year.

Let me see if Mr. Brennan would like to add something to that, Mr. Chairman.

IMPROVEMENTS IN TAXPAYER SERVICE REQUESTED IN THE BUDGET

Mr. BRENNAN. Just two things, Mr. Chairman, that we touched on earlier, but I would emphasize them, and you mentioned them also. In our budget, we do have in fiscal 1990 improved training. I believe that about 40 percent of that request has to do with that. We have many, many good people out there trying to answer the questions correctly, but we do need to increase the training, and that is the one thing that we have in there.

The second biggest item in there is to have a little more time to deal with each taxpayer. What we have found is the asking of the questions by our people—probing, as we call it—is the thing that we are weakest on. So we do have in our budget both the training so they can learn how to probe, and the time so they can take the time to answer the phone calls.

Senator DECONCINI. All right. Let me just ask one more question and then I will yield to the Senator from New Mexico.

NUMBER OF SELF-PREPARED TAX RETURNS

Senator DOMENICI. Mr. Chairman, on that, could I ask just a clarification question?

Senator DECONCINI. Sure.

Senator DOMENICI. How many taxpayer returns are self-prepared, what percent?

Mr. BRENNAN. I don't think we have the figure for this year. It was roughly 50 percent, as I recall, last year.

Senator DOMENICI. So if it is 50, the other 50 are prepared by professionals?

Mr. BRENNAN. Yes, sir; paid preparers.

Senator DOMENICI. Is there, to your knowledge, for that 50 percent, a little recipe for the year that is out and put in the hands of individuals on what they ought to be keeping during the year? Has anybody put a little document together for the average person so that each month they might have a little advance preparation of what they ought to keep?

Mr. MURPHY. As far as a specific document on that, Senator Domenici, we have got a number of publications that have that. As you know, in our instruction booklet that we send out, the media does a great job in helping us get that message out.

In other words, usually when people ask me at the end of the filing season what should taxpayers do, I usually say relax and smile, and now get your records set up for the next year, that type of thing.

But whether there is something out—whether we can do a better job on that, I think the answer to that is yes.

Mr. BRENNAN. We do have either a document or it is in press releases that we put out as to what taxpayers should do during the year as far as keeping records and how to organize them.

[The information follows:]

LETTER FROM CHARLES H. BRENNAN

MARCH 27, 1989.

Hon. DENNIS DECONCINI,
United States Senate,
Senate Hart Office Building, Washington, DC.

DEAR SENATOR DECONCINI: Enclosed is Publication 552, Recordkeeping for Individuals. It is the "recipe" that Senator Domenici inquired about during the Senate Appropriations Subcommittee Hearing.

I sent a copy to Senator Domenici and, also, I wanted to submit a copy of this material for your information. I hope you find this publication informative.

Sincerely,

CHARLES H. BRENNAN.

LETTER FROM CHARLES H. BRENNAN

MARCH 27, 1989.

Hon. PETE V. DOMENICI,
United States Senate,
Senate Hart Office Building, Washington, DC.

DEAR SENATOR DOMENICI: Enclosed is Publication 552, Recordkeeping for Individuals. It is the "recipe" for what records ought to be kept during the year that you inquired about at the Senate Appropriations Subcommittee Hearing.

I hope you find this publication informative.

Sincerely,

CHARLES H. BRENNAN.

Senator DECONCINI. If I can follow up, you don't mail those to every taxpayer?

Mr. BRENNAN. No; we do not.

Mr. MURPHY. No; not like we did last—remember, with the tax reform in 1986, we had that flyer that went out. We haven't done that.

Mr. BRENNAN. We do try to publicize it during the year.

Senator DOMENICI. It seems to me, Mr. Chairman—and I just throw this out for you all because you spend a lot of money trying to help taxpayers. It seems to me that while this might be the job of the private sector, you have to mail something to everyone.

I personally, just on this record, watching my wife do our tax returns—I mean, you have to go back through the whole year and dig out what it is you need. It seems to me if everybody could get a little document that these are the typical things you ought to set aside on a monthly basis, and call it your IRS file——

Mr. MURPHY. Like a planning calendar, that type of thing.

Senator DOMENICI. Like a planning calendar. I think, with a little effort, that would be a very interesting document.

Senator DECONCINI. You could send that out with your forms, too, for the next year.

INVITING TAXPAYERS COMMENTS ON IMPROVING IRS

Mr. MURPHY. We will take a look at what we have. And another thing. and I mention it with the chairman's permission, Senator Domenici—I mentioned earlier that there is a town meeting in Albuquerque, NM, on April 4 that we are conducting for the taxpayers there, and I think that is certainly an item that we could kind of invite comments from the taxpayers to get their ideas on how we might improve on that. But let us take another look at that area.

Senator DOMENICI. Well, you might tell them that I suggested it.

Mr. MURPHY. OK. [Laughter.]

Senator DECONCINI. When you get to Phoenix, you can tell them that it was a joint suggestion. [Laughter.]

Senator DOMENICI. On the other hand, they might really be upset and say it is useless, so I trust your good judgment. [Laughter.]

REVENUE INITIATIVE ESTIMATE

Senator DECONCINI. Let me ask one question here on your revenue initiative. I see you have $55 million proposed. A couple of questions. How much did you ask OMB for this? How do you know $55 million will yield $318 million?

Mr. MURPHY. Well, let me start off on that and then ask Steve Taylor to comment, Mr. Chairman, and that is on the latter part of your question.

The information that we have on that is in the areas that have already been reviewed by people outside of IRS on the $318 million, it does not include the district examination area. That is under an awful lot of scrutiny right now both with us and with a task force that is looking at it. So we are confident with the $318 million.

As far as the costs——

Senator DECONCINI. Who did that for you, an outside firm?

Mr. MURPHY. I am talking about in the OTA in Treasury.

Senator DECONCINI. I see.

Mr. TAYLOR. And the Congressional Budget Office looks at the estimates, CBO.

Senator DECONCINI. CBO?

Mr. TAYLOR. Yes, Mr. Chairman.

Senator DECONCINI. Go ahead.

Mr. MURPHY. OK, but on the $55 million, let me swing over to Steve on that.

Mr. TAYLOR. Mr. Chairman, I don't have with me the specific numbers that we would have offered in the way of a revenue initiative at the time of OMB. It would be necessary for us to provide that for the record.

Senator DECONCINI. OK.

Mr. TAYLOR. But it would have been, as I recall, a larger proposal than what is in the budget as proposed.

Senator DECONCINI. Do you remember roughly how much larger? Was it twice, 3 times, 10 times?

Mr. TAYLOR. Probably at least twice.

Senator DECONCINI. At least twice?

Mr. TAYLOR. Yes; but we will have to make that information available.

[The information follows:]

IRS: REVENUE INITIATIVES

The IRS requested 2,572 staff years and $139,820,000 for revenue initiatives in its FY 1990 OMB submission. The IRS estimated that these resources would have led to increased revenues of $439 million (The examination revenue initiative would have required 2,375 staff years and $130 million in order to bring in revenues of $398 million, the accounts receivable initiative would have needed 197 staff years and $9.7 million to bring in revenues of $41 million).

The IRS uses historical experience in conjunction with computer modeling techniques to provide marginal estimates of revenue from increased levels of funding. The revenue estimates for the IRS initiatives in the FY 1990 congressional submission are acknowledged as reasonable by the Treasury Department's Office of Tax Analysis and have been scored, in full, by the Congressional Budget Office in their February analysis of President Reagan's budget proposals for FY 1990.

ADDITIONAL REVENUE IRS COULD GENERATE

Senator DECONCINI. Last year, just to follow up on that, we had a drug bill. Last year, we asked the IRS to identify revenue which could be generated in the agency if it was given additional resources. This question was asked in reference to funding the requirements of the drug bill.

I recall that you responded that you could raise an additional $1.2 billion with an additional $286.5 million at the beginning of fiscal year 1989. And my question is, Recognizing that we missed the opportunity to do that, how much additional revenue could the IRS generate this fiscal year if we gave you additional funds in a supplemental appropriation bill?

Mr. MURPHY. That is a difficult one to answer, Mr. Chairman, for the reason that I mentioned earlier. Since that time, there has been review of the whole area of estimating the revenue, and GAO has been involved with us on that and I mentioned the study group that has been working on that subject.

Other than the areas that are reflected in the $318 million, I just don't have a good figure to give you, or really any figure. I expect that we are going to have the results of those efforts, and certainly cooperate with anything that goes on between the Congress and the administration.

Senator DECONCINI. Well, what I would like to ask you to do, and I realize it is only an estimate, if you would give us your best judgment, conservative or liberal as you may want, for 1989 if a supplemental were given.

Mr. MURPHY. For 1989.

Senator DECONCINI. And also for 1990.

Mr. MURPHY. OK.

Senator DECONCINI. Would you supply that for the record?

Mr. MURPHY. We will supply that.

[The information follows:]

ADDITIONAL REVENUES FROM FISCAL YEAR 1989 SUPPLEMENTAL FUNDING AND FROM A LARGER FISCAL YEAR 1990 APPROPRIATION

For fiscal year 1989, supplemental funding would not produce any more direct enforcement revenue. This is because of the lead time required for hiring and training once the amount of additional funding were known. To be minimally effective, such funding would have to be a known certainty well before the halfway point in the fiscal year.

For fiscal year 1990, in conjunction with the Bipartisan Budget negotiations, IRS identified four additional revenue initiatives requiring $58.5 million in budget authority and producing first year revenues of $150 million. Beyond this funding level, any further resources would have diminished marginal impact, going below two dollars for every dollar spent.

EMPLOYEE DISCRIMINATION COMPLAINT

Senator DECONCINI. I yield to the Senator from New Mexico.

Senator DOMENICI. Thank you, Mr. Chairman. First, Senator Hollings has asked me, Mr. Murphy, if I would hand you an IRS employee discrimination complaint that he has been trying to have somebody resolve since 1987. I know nothing about it, but I am pleased to give it to you for him and ask you to attend to it.

Mr. MURPHY. We would be happy to look into it. Thank you, Senator.

[The information follows:]

LETTER FROM MICHAEL J. MURPHY

MARCH 22, 1989.

Hon. ERNEST F. HOLLINGS,
United States Senate,
Washington, DC.

DEAR SENATOR HOLLINGS: During the recent appropriation hearings, Senator Domenici asked me to look into the discrimination complaint of Ms. Shirley Robinson and provided me your question and the extensive correspondence package on the case. In reviewing the package, I appreciate your frustration with the process, with the level of responsiveness to your correspondence and with unfulfilled commitments.

The Department's Office of Equal Opportunity Program has assured us that the decision in Ms. Robinson's case is written and currently under review by General Counsel at Treasury, a process that should require no more than one week. I have asked my staff to monitor this commitment and to follow-up within the week to assure the issuance of a decision before the end of the month.

If I can be of any further assistance, please let me know.

With best wishes.

Sincerely,

MICHAEL J. MURPHY, *Acting Commissioner.*

IRS CODE SECTION 89

Senator DOMENICI. I want to take just a few minutes right quick to talk about section 89 of the IRS code, nondiscrimination in employer benefit plans. First of all, I hope you know by this time that among small and medium-size businesses there is a war going on out there.

Most of them and most of the associations that represent them claim that this rather innocuous provision for nondiscrimination will not have its intended effect. Essentially, we did not want employers to have a real fat plan for those who are paid a lot of money in a company and a weak plan for the others—essentially, that was the goal.

What is really happening, because of the rules, the regulations, and the test for compliance—most feel that it is going to have a reverse effect, and that while we have 37 million Americans right now without health insurance, we are not going to get more; we are going to get less from the business sector.

SMALL BUSINESS COMPLIANCE WITH SECTION 89 RULES

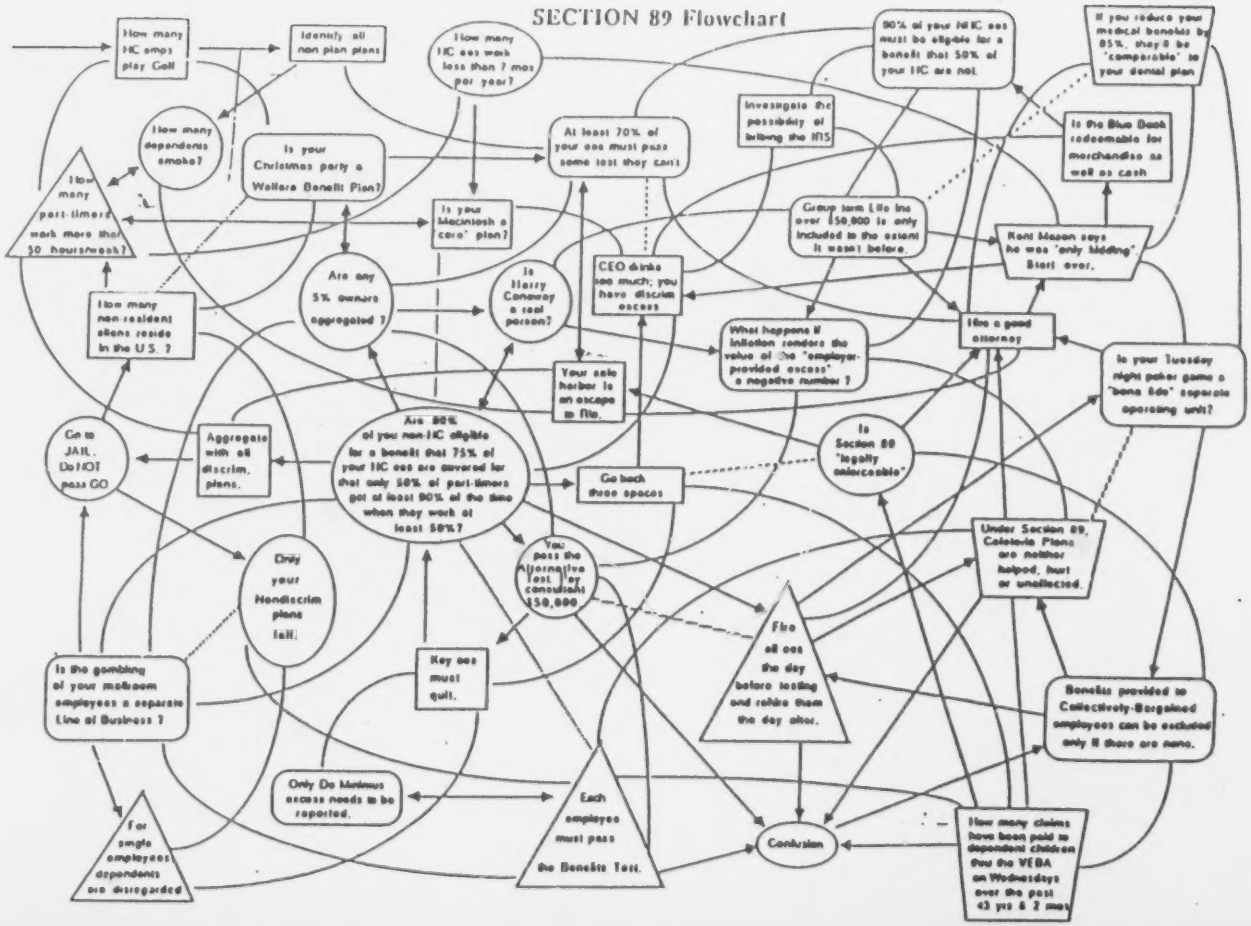
My first question is a general one. Do you have any way of assessing at this point how difficult it is going to be for the small businesses in the United States to comply?

Mr. MURPHY. We do not have any figures estimating the cost of compliance or possible tax expenditures by small businesses at the present time. However, in an effort to better assess the effect of the statute and proposed regulations, the preamble to the regulations requests comments on the expected effect on costs to employers and health providers resulting from section 89 requirements. We have particularly encouraged employers to provide information on the cost effect of specific provisions under the statute and proposed regulations with the intention of taking this information into account to the extent possible in providing reasonable administrative approaches to satisfying the requirements of section 89.

Senator DOMENICI. I understand you are not a social agency, but it seems to me that if we rely on the information we are getting from our constituents, this law is not going to work, and we need some way, since its goal is laudatory, of finding out whether it is going to work or not.

I just want to put this in the record. While it is somewhat of a joke, it is worth looking at. This is a rather enlightened person's flow chart, with a bit of hilarity in it, as to what could happen if you went all the way through this for a medium-sized business person. Even if it is only half true, it is rather startling.

[The information follows:]


SECTION 89 Flowchart
How many HC emps play Golf
Identify all non plan plans
How many HC ees work less than 7 mos per year?
90% of your NHC ees must be eligible for a benefit that 50% of your HC are not.
If you reduce your medical benefits by 85%, they'll be "comparable" to your dental plan
How many dependents smoke?
Is your Christmas party a Welfare Benefit Plan?
At least 70% of your ees must pass some test they can't
Investigate the possibility of bribing the IRS
Is the Blue Book redeemable for merchandise as well as cash
How many part-timers work more than 30 hours/week?
Is your Macintosh a "core" plan?
Group term Life Ins over $50,000 is only included to the extent it wasn't before.
Kent Mason says he was "only kidding". Start over.
How many non-resident aliens reside in the U.S.?
Are any 5% owners aggregated?
Is Harry Conaway a real person?
CEO drinks too much; you have discrim excess
What happens if inflation renders the value of the "employer-provided excess" a negative number?
Hire a good attorney
Is your Tuesday night poker game a "bona fide" separate operating unit?
Your safe harbor is an escape to file.
Go to JAIL. Do NOT pass GO
Aggregate with all discrim. plans.
Are 80% of your non-HC eligible for a benefit that 75% of your HC ees are covered for that only 50% of part-timers get at least 80% of the time when they work at least 50%?
Go back three spaces
Is Section 89 "legally enforceable"
Under Section 89, Celeste Plans are neither helped, hurt or unaffected
Only your Nondiscrim plans fail.
You pass the Alternative Test. Pay consultant $50,000
Is the gambling of your mailroom employees a separate Line of Business?
Key ees must quit.
Fire all ees the day before testing and rehire them the day after.
Benefits provided to Collectively-Bargained employees can be excluded only if there are none.
Only De Minimus excess needs to be reported.
For single employees dependents are disregarded
Each employee must pass the Benefits Test.
Confusion
How many claims have been paid to dependent children thru the VEBA on Wednesdays over the past 43 yrs & 2 mos

Senator DOMENICI. So can you talk to this issue for just a moment, please?

Mr. MURPHY. Sure. Let me just mention very briefly, and then I am going to ask Mr. Mihelcic, our Associate Chief Counsel, to comment on it, Senator Domenici. I would acknowledge it does look like a road map.

On section 89, as you know, we put our regulations out after an awful lot of encouragement by tax practitioners and the public that, hey, it is about time IRS provided some guidance on this. When they finally did come out, then there were a lot of concerns about how good those regulations were.

But on your very point of what our responsibility is, let me just acknowledge to you that the pension plan is certainly an area of responsibility. Even though we are not a social agency, we have got to be able to deal with those issues.

One of our difficulties on the legislative process is consideration of how well we can administer something, so that is an area of concern. Do I have a lot of detail on how it is going to impact? I don't, but I think it is best that I just ask Mr. Mihelcic to try to respond to your question.

Mr. MIHELCIC. The only comment I would make, Senator, at this point with respect to those regulations is that further guidance is going to be forthcoming. We are entertaining substantial comment from the tax practitioner community, as well as the public at large.

Certainly, in the course of our deliberations with respect to further guidance being emanated from our organization, we will, in fact, reflect, I think, the substantial comment that we have received.

COMPLYING WITH SECTION 89

Senator DOMENICI. Well, see, I think it is very important that if you can't that someone does, because obviously you are, in a sense, responsive to the tax-writing committees and they are very responsible people, and I have already said that this is a laudatory goal.

But, frankly, you know, my experience with the Internal Revenue Service is that they are very good soldiers, and I think that is as it should be. But in this kind of situation, we need someone in Government verifying or screening what we are hearing.

I can tell you that, for instance, there are some firms advertising that they will help these business people with this and we are not even sure that they know what they are doing. But the minimal fee just to tell them what they ought to do is $800, plus $10 per employee.

People who have looked at their proposals were not at all sure that they would certify that they have told them how to do it right. Some are telling us the fees are $2,000, $3,000, $4,000 to go through and help a business entity comply with this plan.

I myself have looked at, from a small business standpoint, just a preliminary list of the things they have to find out, and it is rather incredible. I mean, the preliminary list goes from A through N just with itemized things like, for instance, excludable employees, employees and family members with group coverage, the number of part-time employees and hours worked, the number of employees

in benefit plans, the number of nonhighly compensated employees, number of employees by highly and nonhighly compensated types, employee-specific information to track benefits offered, number of separate health plans per line of business, and on and on and on, and then they aren't sure when they are finished that there is a clear rule for saying they have complied.

That is the one that is getting everybody. They are not sure when they are finished with it all how they are going to figure out compliance. So from my standpoint, I think this is one that, again, while you have a responsibility to carry it out, I think you have a responsibility to be objective about the kinds of complaints so that somebody will get an official agency telling us what is true and what isn't true. I hope you can do that for us.

Let me tell you how serious it is. In the House, there is an absolute repealer; it already has 190 signatures on it. In the U.S. Senate, we are not there yet. Of course, the tax-writing committees want to see this work; they don't want to repeal it. But I frankly think we need some advice as to what is true and what isn't true.

Mr. MURPHY. Well, Senator, we will follow up on that and we will certainly take that up on the tax policy side with the Treasury people on it as well. I am aware of the controversy in that area. I appreciate your bringing it up.

IMPACT OF FREEZING IRS SPENDING

Senator DOMENICI. I want to go on to some budget matters in terms of the way you are handling the appropriated accounts that do kind of bother me, so let me be as quick as I can.

In President Reagan's fiscal 1990 budget, a total increase of $289 million in the IRS funding over the total of the $5.2 billion appropriation level for fiscal 1989 was requested. Of that $289 million increase, $55 million is for an enhanced revenue enforcement initiative which would result in a $318 million increase in revenues for fiscal year 1990 and $2.3 billion over the next 5 years.

The Bush budget showed a similar increase in revenue due to an IRS initiative. However, OMB Director Darman has indicated that except for a $56 million drug enforcement initiative, all the IRS funding is in the so-called discretionary residual freeze category.

What would the impact on revenues be of freezing IRS' spending in the year 1990? Or, conversely, if it is in the freeze category, is the administration actually asking that it be removed from the freeze category and that we fund it at the level requested in the Reagan budget?

Mr. MURPHY. Well, let me get right to the immediate reaction to having that in the freeze, Senator Domenici. As I mentioned in my earlier statement, it would be just extremely difficult for us if we didn't get the funds we needed that are reflected for the tax system modernization and for the improved service to the taxpayers. So it is quite obvious that if we didn't get the funds to produce that revenue, I just don't see how we could do it.

In response to your question about whether or not we are exempted from any freeze, we are not at that stage. We haven't been given that assurance, and we certainly would look forward to discussing that further with the people in Treasury.

Senator DOMENICI. The problem the distinguished chairman and I have on this subcommittee when we go to the allocation of the appropriation money from the budget totals is we have to know right away what impacts revenues and what increases are necessary. If I understand you correctly, if we want increased revenues due to enforcement, we have to go into that reserve category and say we need a $54 million increase, which means something else has to be decreased because that is the nature of the freeze.

I am not asking that you tell us that you support that, but that is essentially the dilemma we are in. We need to know.

Mr. MURPHY. I understand, and I hope you understand the flavor of, if it would come back that way, what a tremendous impact that could have on the future of tax administration. So I think we have a mutual concern there, Senator Domenici.

IMPACT ON IRS OF SEQUESTERING FUNDS

Senator DECONCINI. Would the Senator yield?

Senator DOMENICI. Sure.

Senator DECONCINI. I would ask also, what would be the impact of a sequester on the IRS? Have you looked at that?

Mr. MURPHY. I haven't, but maybe Mr. Taylor can help me on that one.

Senator DECONCINI. Could you supply us the amount?

Mr. TAYLOR. I believe, Mr. Chairman, perhaps we could come up with an estimate, but as Mr. Murphy indicated, we have some basic absorptions we are wrestling with as it is, and without a budget increase and a sequester on top of that, I think we would face the severest imaginable curtailment.

Senator DOMENICI. Mr. Chairman, I just found that I can stay an extra 15 or 20 minutes, so I will yield back my time now and I will stay and ask another round of questions.

Senator DECONCINI. Fine.

Senator Kerrey.

IMPACT OF EASIER IRS FORMS ON TAX PREPARERS

Senator KERREY. Thank you, Mr. Chairman.

I have a question that sort of follows on an earlier question that Senator Domenici asked about a form. It has to do with the approximately 100 million paid individuals who prepare forms for people.

Let us say that you take the idea Senator Domenici has talked about and prepare a form that, in fact, is easy to understand and 10 million more Americans voluntarily fill out their own forms. Will you get flak from the private sector for cutting into their trade?

Mr. MURPHY. I think, Senator Kerrey, I would say that as a result of an awful lot of work that we have done to improve our relationship with practitioners that they would be willing partners in supporting that type of thing. I have never experienced flak.

Early in my career as a district director in Iowa and in Georgia, I recall a few times where the voluntary assistance programs—sometimes you would get a little bit of a flap about, gee, you are

doing all this work and, therefore, you are depriving me of getting it.

I think that the maturity of tax preparers, as well as the Internal Revenue Service, has kind of overcome that now. So I would say that I would expect more cooperation and ideas on how we could improve those forms so we can help taxpayers with the easiest type returns, like the 1040EZ and the 1040A. Again, we are seeing increases in that to keep them away.

The legislation, I think, has eliminated a lot of people from having to itemize their deductions and those types of things. But in answer to your question—and you said 100 million preparers. We talked in terms of about 50 percent of the returns that are filled out by paid preparers.

Senator KERREY. Well, it would be half of 200 million.

Mr. MURPHY. OK, if that is what came out of there. I will be happy to check that out and feed that back to you, if you like.

Senator KERREY. That is the limit of my math skills, dividing 200 by 2.

What you have described is an improved relationship between yourself and the paid providers.

Mr. MURPHY. Absolutely.

Senator KERREY. But I am in the 100 million or so that has a paid preparer. I may see if Senator Domenici's wife can do it for me in the future. [Laughter.]

IRS RELATIONSHIP WITH TAX PREPARERS

And I have had three or four paid preparers do it over the course of my happy tax-paying life, and they almost always, in the midst of describing their relationship with the IRS, begin with an expletive. I mean, it is not a friendly relationship.

I mean, you are describing an improvement. What I am trying to ascertain is, is there a kind of a natural tension that is there, and will there be resistance? I mean, is there a resistance to a form that actually enables more people to prepare their own returns?

Mr. BRENNAN. I would say no, Senator. From the meetings that we have had——

TREND IN USING TAX PREPARERS

Senator KERREY. By the way, is the trendline down of the number of people? I mean, 10 years ago, did more people fill out their forms than today?

Mr. BRENNAN. No; the trendline is the other way. More people are going to paid preparers, but the paid preparers, particularly last year, felt that they had more business than they could handle.

In our liaison meetings that we have in Washington with them and around the country, the feedback we get is to make our forms more simple, not only the tax forms, but on the other forms we send out. So I don't know of any problem out there with the preparers not wanting us to simplify forms.

Mr. MURPHY. Senator Kerrey, Mr. Wedick would like to add something.

PREPARERS RESISTANCE TO IRS CHANGES

Mr. WEDICK. Senator, if I might, your very suggestion really was translated into reality when we produced the 1040EZ. You may recall up until a few years ago, we had a 1040 return and 1040A return. We then produced a 1040EZ, which is a very simple return, the kind of a return that a lot more people could prepare. Obviously, their tax situation has to be simple, also.

There was not a concern expressed at that time on the part of the practitioner community that, gee whiz, you have got this simple return now and you are taking business away from us. As I recall, there was nothing like that at all.

Senator KERREY. So that you understand, I mean in the past 6, 7 years, I am almost always applying for an extension and I never discover what is correct until I am audited. So I mean, I am talking and representing from a very personal standpoint.

But I am aware of tension between paid providers. I mean, I hear you——

Mr. WEDICK. Oh, I think there is tension. I think, however, that we do have a lot of initiatives we have pursued that have brought us together more closely than we were in the past. That does not mean that you are dealing with a total love-in.

But everybody understands that preparers play a key role in the system and that we and the preparers really do have to work together to make the system work. That is our objective. We have been working very hard at that.

Senator KERREY. But you don't see yourself as competitors?

Mr. WEDICK. Not really. I do not, quite frankly. I think that we have a responsibility and they have a responsibility.

COMMUNICATION WITH TAX PREPARERS

Mr. MURPHY. And there are an awful lot of paid preparers—just one last comment on that, Senator Kerrey. There are an awful lot of paid preparers that are not associated with societies or associations, and a lot of times the communication isn't as good as it is where you have got the CPA society, the bar, the public accountants, the enrolled agents.

There, there is a greater opportunity for improved communication. Maybe that way, we could eliminate the expletives about the Internal Revenue Service in the process, too.

Senator KERREY. I doubt it. [Laughter.]

LOCATION OF TOWN MEETINGS

Mr. MURPHY. Mr. Chairman, I misspoke on something earlier and I have a feeling I may end up with another town meeting. I said that there was one in Phoenix, and I have got the list in front of me and it is not. And, no, Senator Kerrey, there isn't one scheduled for Nebraska either.

Senator DECONCINI. There will be, will there not? [Laughter.]

Mr. MURPHY. But Albuquerque is definite.

Senator DECONCINI. I think we want one.

Mr. MURPHY. OK.

TRAINING PROBLEMS FACED BY IRS

Senator KERREY. Mr. Murphy, you have got, you say, 115,110 average positions. Is that like FTE?

Mr. MURPHY. It is FTE, the same thing. I find the jargon differs, but, yes, we talk in terms of FTE or positions.

Senator KERREY. That is a big number.

Mr. MURPHY. It certainly is.

Senator KERREY. A big organization. It is surprising to me, the size of the organization. I am very conscious, as a consequence of having spent a 4-year period as Governor, how difficult it is to manage a nonprofit governmental organization for which there is no, or I assume very little, reward as a consequence of generating profit, as the private sector does.

I don't want to launch into that effort, but I am also very conscious of the competitive—though you may not be competing for market share of returns filed——

Mr. MURPHY. In a way, we are.

Senator KERREY [continuing]. You are unquestionably competing for people, it seems to me. Someone whom you train to help somebody fill out a return, I assume, becomes valuable almost as a consequence of the training in the private sector.

Mr. MURPHY. That is correct.

Senator KERREY. Without running the answer too long, could you just give me some sort of sense of the training problem that you face with 115,000 FTE people, you know, with a lot of pressure on enforcement and a lot of pressure as well on services?

Mr. MURPHY. Well, OK. On the large part, let me just comment on that. As you can see on the chart, you have got a $5-plus-billion budget, but you have got an awful lot of workload that is being handled, including receipts of $1 trillion. So there is an awful lot of money generated, as you well know, by the Internal Revenue Service, and it takes people to do it.

As I mentioned earlier, Senator Kerrey, with the advent of tax system modernization, I think technology can deal with an awful lot of that where you can then perhaps reallocate some of the people to auditing tax returns and collecting revenue that type of activity where you have got the human beings involved.

Senator KERREY. Excuse me. Aren't you constrained to a certain extent in the way you deploy technology by the requirements of Government itself? I mean, you can't make what I would call a private sector decision about the deployment of telecommunications technology, can you?

Mr. MURPHY. We have to go through the very sophisticated procurement process. We have got restrictions on it. It is very difficult to achieve, and it also involves an awful lot of money that we would seek from your subcommittee on it.

But you are right; there are a lot of restrictions, but that doesn't mean it is not attainable, Senator Kerrey.

Senator KERREY. To begin with, you can't use depreciation to write off the expense.

Mr. MURPHY. That is right. We are nonprofit in that respect; you are right.

Senator KERREY. But what I am trying to determine is just get a short list, because I don't want to drag the answer out too long.

ADDRESSING ATTRITION PROBLEMS

Mr. MURPHY. OK. Well, let me get to your training point because I think that is—when you have people that must take on these skills, there is always a difficulty, because of the complexity of the job, of training them to do their job. Once they are on the job, if the pay isn't commensurate with what people can get in private industry, there is a quick exodus from an organization like ours.

So we can spend an awful lot of money on training people and giving them the skills they need to do their job and then have the problem of losing them. We have a lot of things that are in place to try to deal with that. Being a better employer is one, and providing the type of training that supports cross-functional opportunities for people that might be in a lower skilled job to go into a professional one.

So I guess in response to your question on our bigness and everything, this is a major challenge for a large organization, just like it would be for a large company. But we are trying to deal with it the best way that we can, and you have pretty well laid out the kind of problems that a large organization deals with.

ATTITUDE OF THE PUBLIC TOWARD IRS

Senator KERREY. You know, it seems to me, with what I think is an understandable schizophrenic attitude toward the IRS—I mean, I hear the question asked by the Chair about what happens with a budget cut or a sequester. If I went home and asked Nebraskans, I have got a choice of budget cuts here, do you want me to cut the IRS, they would say eliminate the IRS, let alone cut the IRS.

Yet, if I say to them, well, if I cut the IRS, that means you may in the end—those of you who voluntarily pay your fair share, you may end up having to pay more. Then they say, well, I don't want to do that and, by the way, I would like to have more spent on IRS when I need to be serviced.

I mean, there is a schizophrenia about the IRS as a whole best, I think, expressed by Danny DeVito in the movie "Tin Man" making an airplane out of a letter sent to him for collection.

I mean, are you genuinely focusing on this training thing, because it seems to me that perhaps in no other area of Government is training more critical to the execution of the mission of Government?

REQUESTED TAXPAYER SERVICE TRAINING INCREASE

Mr. BRENNAN. Let me just give you, if I may, Senator, one example. In terms of the requested increase in taxpayer service, 40 percent of that total increase in the FTE is in the training area.

Senator KERREY. Forty percent?

Mr. BRENNAN. Forty percent of our requested increase of FTE's in the taxpayer service is in the training area.

Senator KERREY. Can you—and this is just a yes or no answer—can you supply me with some information about what you are doing in training?

Mr. BRENNAN. Yes, sir.

Mr. MURPHY. Absolutely.

Senator KERREY. Mr. Chairman, that is all I have.

Senator DECONCINI. Is that all you have?

Senator KERREY. Yes.

Senator DECONCINI. Fine.

Senator Domenici, do you want to continue?

IRS REPROGRAMMING

Senator DOMENICI. Mr. Chairman, I have about 20 questions, some that have to do with reprogrammings and this year's request for supplemental appropriations authority and what IRS did by way of transferring appropriated funds between accounts, and now we are being asked to replenish some of them. I think we really need an explanation, and I will give these questions to you for a response.

QUOTAS

I may want to say to Senator Kerrey, you alluded to it being a nonprofit organization and there is no recompense. We were at one point, the chairman and I, interrogating the IRS because we received citizen complaints that they were over-zealous because they were giving special benefits, allegedly, based upon how much collections the individual agent was successful in effecting.

Obviously, that made the taxpayer, he found that out, even more angry. So they have a delicate balance to maintain all the time; they have a tightrope they have to walk.

Senator KERREY. I must also just observe that I have lived in fear of the IRS most of adult life and it is a joy to have the tables at least momentarily turned. [Laughter.]

Senator DECONCINI. Let me tell you, with the audits I have had, it doesn't make any difference at all. [Laughter.]

Mr. MURPHY. You have got a bunch of former revenue agents over here, Senator. [Laughter.]

The point that Senator Domenici made, though, I think is also an important one because of the memo that I gave you. The subject of quotas is an item in the statute on bill of rights, and I would just like to reaffirm to you, Senator Kerrey, that the Service does not condone that type of behavior and we are doing a lot of things to train our people on how to manage statistics, not to use that as a means of extracting money from taxpayers. So I appreciate your mentioning that one.

COLLECTION OF JUDGMENTS MADE BY THE TAX COURT

Senator DECONCINI. This subcommittee funds the U.S. Tax Court, and when the Tax Court enters judgments resulting from IRS tax deficiencies, once these judgments are made, does the IRS collect all of the moneys found owing to the Federal Government, or what percent do they collect?

Mr. MURPHY. Let me ask Mr. Mihelcic to respond to that, Mr. Chairman.

Senator DECONCINI. Sure.

Mr. MIHELCIC. The deficiencies that are set up by examination, Senator, that ultimately come through the Tax Court—I believe you had Judge Nims testify before you just recently, and he alluded to the fact that approximately 30 percent of the determinations made by the Service examination function ultimately are determined to be appropriate by the Tax Court.

Now, our records reflect, and the information that we have gleaned in connection with the collection function is, that about 95 percent of those dollars are ultimately collected; that is to say, where the Tax Court has agreed with the deficiency, 95 percent of those dollars are ultimately collected.

Senator DECONCINI. And over what period of time is that, within the year?

Mr. MIHELCIC. I don't have that exact number, Senator.

Senator DECONCINI. Is it a short period of time, or do you have any idea?

Mr. MIHELCIC. Well, perhaps Mr. Brennan could comment on that.

Mr. BRENNAN. I was trying to think as you were talking. I can't—I just don't have that in my memory.

Senator DECONCINI. I would like to know what kind of time period that is.

Mr. MIHELCIC. We can certainly supplement the record on that, Senator.

[The information follows:]

We have previously estimated that approximately 95 percent of all examination assessments are collected in eight years. However, we are currently reassessing our methodology and a report will be forthcoming.

AUDIT COVERAGE AND TAX COLLECTIONS IN FISCAL YEAR 1990

Senator DECONCINI. I see, Mr. Commissioner, that none of the $289 million will be used to increase audits in fiscal year 1990, and that you audit only 1.23 percent, which is almost 10 percent less than what you audited the year before, 1.34 percent—excuse me—in 1985.

How do you explain auditing less with more money and wanting to collect more?

Mr. MURPHY. OK. Let me start and then ask Charly Brennan to jump in, Mr. Chairman. As I mentioned earlier, the service center contacts on correspondence are the only ones that are in that budget, as you know. So those are contacts and they would raise that percentage probably to about 2 percent.

As far as the specific number, certainly, on the 1.23 percent, I didn't focus on that 10-percent change, but let me ask Charly to just give you his reaction to that.

Mr. BRENNAN. There are two or three things that impact upon the percentage that you quote, Senator. One, we estimate it far in advance and the filings have tended to go up a bit higher than we had anticipated.

The second and more major area that impacts on the coverage is decisions that we make to do the more complex returns, and that is what we have been doing for the last few years, putting more of our resources into the more complex returns, the higher income tax returns. This takes more time.

So we do examine fewer returns, but they are the ones most in need of examination in terms of the revenue they produce for the Government.

PERCENTAGE OF RETURNS AUDITED IN HIGHEST INCOME BRACKET

Senator DECONCINI. What is the percentage in the highest income bracket that you audit?

Mr. BRENNAN. In the highest income—well, if you take the largest corporations in the country, it is very near 100 percent for those corporations. In terms of individuals, I don't have a figure with me.

HIGHER COLLECTIONS WITH HIGHER AUDIT COVERAGE

Senator DECONCINI. If you audited more, would you collect more money? Are you apt to collect more money?

Mr. MURPHY. Well, let me answer that. If we audited more, would we collect more money?

Senator DECONCINI. Yes.

Mr. MURPHY. The answer is yes to that, Mr. Chairman. Of course, you have to take into consideration what we discussed earlier about the amount of revenue that is generated, but the answer is quite obvious.

Senator DECONCINI. Would you collect more than what it costs to audit more?

Mr. MURPHY. Oh, absolutely.

Senator DECONCINI. You would?

Mr. MURPHY. Yes, sir.

Senator DECONCINI. Why is it, then, you don't focus on auditing more?

Mr. BRENNAN. We do——

Senator DECONCINI. You are auditing less, but actually what you are telling me is that you are auditing less because there are more returns.

Mr. BRENNAN. Well, two things. There are more returns filed and then we direct our audits to the more complex returns.

Senator DECONCINI. Yes.

AUDIT COVERAGE RATE AT DIFFERENT INCOME LEVELS

Mr. BRENNAN. Just to give you a figure, the lowest percent coverage is in the 1040A area.

Senator DECONCINI. What is that?

Mr. BRENNAN. It is 0.53 percent. The highest coverage is in the $50,000—I am talking about individuals right now—in the individual area is 2.24 percent.

Senator DECONCINI. How much?

Mr. BRENNAN. That is 2.24 percent.

Senator DECONCINI. That is not very much even there.

Mr. BRENNAN. No; but when you look at approximately 1 percent overall, it varies dramatically.

DECREASE IN AUDIT COVERAGE

Senator DECONCINI. I guess I am not making myself clear. It appears that you are auditing 10 percent less. Since 1985, has the number of audits decreased by 10 percent less?

Mr. BRENNAN. It has gone down since 1985.

Senator DECONCINI. Yes. Has the filing rate increased by 10 percent?

Mr. BRENNAN. No.

Senator DECONCINI. It has not?

Mr. BRENNAN. But the filings are not the total reason for it.

Senator DECONCINI. No?

Mr. BRENNAN. We have gone to the more——

Senator DECONCINI. What I am trying to determine is, if you had this many more filings and then you had that lesser percent in audits, you can attribute that to growth and not do anything more. However, if your audits are decreasing faster than the growth of the number of returns, I don't think that is a very prudent practice.

And, believe me, I recognize that I am not asking a very popular question; nobody wants any more audits. But I have trouble understanding that, why you don't conduct more audits.

FOCUSING AUDITS ON COMPLEX RETURNS

Mr. BRENNAN. That deals with the complexity issue that I was trying to make clear. We try to focus our audit on the more complex returns. By doing that, as I pointed out here in some of the figures, we examine those returns that are more complex, that are more in need of examination, and do in the long run produce higher dollars for the Government.

Senator DECONCINI. You get a higher return.

Mr. BRENNAN. Correct, a higher return on our investment.

Senator DECONCINI. You have a higher return on the $50,000 and above audits than you do on the other ones?

Mr. BRENNAN. Yes, sir; I don't have that figure, but I know we do.

Mr. MURPHY. The higher the income——

Senator DECONCINI. The higher the income, the higher the return on the Government's investment.

Mr. BRENNAN. That is why in the corporate area we audit——

Senator DECONCINI. So instead of auditing 2 percent of returns in the $50,000 and above bracket, if you audited 4 percent of them, you would raise substantially more money?

Mr. BRENNAN. That is correct.

NEED TO MAINTAIN BALANCE IN AUDIT COVERAGE

Mr. MURPHY. I think we are back to the whole issue of balancing again, and I certainly understand what you are saying. At the same time, we would never disagree with you, Mr. Chairman, about that audit coverage. That coverage is too low. There is no

question of that, but the complexity is there. I think the training issue that Senator Kerrey mentioned before comes into play on this one, too.

Senator DECONCINI. My last—yes, sir.

SELECTING RETURNS FOR EXAMINATION

Mr. WEDICK. The approach that we use in selecting returns for examination, as Charly suggested, is to select those most in need of examination, and that really—except for a small part of the examination resources, means that we examine those where there is the greatest return on the investment, using marginal yield to average cost relationships among all the classes of returns from the largest to the smallest.

So the way that would work is that you could examine a return that is not a particularly large return—in other words, not a $50,000 or over return—and actually get a better return on the time that you invest in that return because it is less complex, and therefore, easier to do.

What we have tried to do is to move as much as we can into the more complex returns, and that is why the numbers drop down in absolute terms.

When you look at the investment we make and you look at the yield that is produced, if you were running a private sector company you would say that would be the way you should, in fact, invest your resources.

IRS CONGRESSIONAL LIAISON

Senator DECONCINI. My last question, Mr. Commissioner, is, you know, unlike most Federal agencies, the IRS doesn't have a great constituency up here, except when we want you to raise more money. Therefore, it makes both our job and your job easier if interaction with the Congress is available.

My office receives a lot of complaints from other congressional offices, because we have jurisdiction over your budget, of the lack of IRS liaison up here on the Hill. Members of my staff have met with your congressional liaison and made some suggestions.

I don't pretend that we have all the answers, but I wonder if you have looked at that or if you will look at that and maybe make some changes up here. You have a very minimal staff. When we ask for things, they don't have it available. It comes in the mail in some form or some booklet or something, instead of an answer that they might provide which would be a lot better for us, because it may take 2 weeks to receive the package, unless it is a complicated question.

I just think that relations could be a lot better up here for you and for us if you paid a little more attention to some better kind of congressional liaison, and I am not suggesting a big, new subdivision of the Commissioner's office. But I would just pass on to you that that is a constant complaint we get here from other members, that the IRS congressional liaisons are so bad.

Mr. MURPHY. I appreciate that.

Senator DECONCINI. And I don't mean that personally to anybody here because, quite frankly, I think you have only one person we

deal with. They are very good, but they don't have any kind of organization or any kind of information instantly to help. Maybe they could just use your electronic communication system.

Mr. MURPHY. There you go. Well, I appreciate your mentioning that, and you are right. We had some recent discussions on that, Mr. Chairman, and I think that is another item of education and being more responsive and having a good enough relationship where we can constructively criticize and try to just make things a lot better. That is an opportunity for us, too.

Senator DECONCINI. I think it would help you not only on the House side, but certainly over here on the Senate side, too.

Mr. MURPHY. Yes.

Senator DECONCINI. They come to us and say, can you get anything out of the IRS because you have got jurisdiction over their budget? And I say, you know, not much more than you can. It is a frequent complaint.

Mr. MURPHY. I can see I am going to have to bring in some of our positive letters on that side of it, then, too.

Senator DECONCINI. And I am sure there are some.

Mr. MURPHY. OK.

Senator DECONCINI. I am sure there are some, and I don't want to leave the impression that it is a horrendous problem.

Mr. MURPHY. I understand what you are saying.

Senator DECONCINI. I was only suggesting that it might make things easier; it certainly would for us, and it might even make things easier for you, too.

Mr. MURPHY. That is very helpful.

Senator DECONCINI. Does the Senator have any other questions?

FARM CREDIT ACT

Senator KERREY. I have one question I would submit.

Senator DECONCINI. OK.

Senator KERREY. It relates to the Farm Credit Act of 1987, and there is a restructuring program going on right now and there is a stoppage that is occurring out there because they are trying to get a ruling or a policy, actually, on this loss write-down.

Mr. MURPHY. I see.

Senator KERREY. And the question I will submit is, is it possible to get an answer by the first of April so that they could proceed with these restructurings?

Mr. MURPHY. Well, why don't we do this, Senator Kerrey? As far as submitting it for the record, you know, that is fine, but if you wouldn't mind, Mr. Mihelcic will be happy to take a look at what you have and maybe he could make a contact and look into it. I am not familiar with the provision.

Senator KERREY. OK.

[The information follows:]

The Agricultural Credit Act of 1987, Pub. L. 100–233 (the Act), requires FmHA to modify delinquent farm loans to the maximum extent practicable (i) to avoid losses to the Government on such loans, with priority given to writing down the principal and interest and to debt set-aside, and (ii) to ensure borrowers are able to continue farming. Section 61(a)(12) of the Internal Revenue Code expressly includes income from the discharge of indebtedness in the definition for gross income. However, Section 108(a) of the Code excludes discharge of indebtedness from gross income if the

discharge occurs (i) in a title 11 bankruptcy, (ii) when the taxpayer is insolvent, or (iii) if the indebtedness discharged is qualified farm indebtedness. Under Section 108(b) of the Code, the amount of income excluded under Section 108(a) must be applied to reduce certain attributes of the taxpayer (i.e. net operating losses carried forward from prior years). Section 108(e)(2) provides that no income is realized from the discharge of indebtedness to the extent that payment of the liability would have given rise to a deduction.

To qualify under Section 108(g) of the Code for the qualified farm indebtedness exclusion, a farmer must have incurred the indebtedness directly in connection with the operation of the trade of business of farming and have had 50 percent of his aggregate gross receipts over the 3 preceding years from farming. Additionally, the debt must be discharged by a qualified person, which under Section 108(g)(1)(B) includes a federal agency. The amount excluded under the qualified farm exclusion cannot exceed the sum of the tax attributes of the farmer and the aggregate adjusted bases of qualified property as of the beginning of the taxable year following the taxable year in which the discharge occurs. Thus, to the extent the discharged principal on a qualified farm debt exceeds the amount of such tax attributes and bases in property, the farmer is required to recognize income at the time of the discharge.

The above provisions provide the basic framework for the tax treatment of farmers participating in the FmHA programs, however, precise application of the provisions is still under review.

SUBMITTED QUESTIONS

Senator DECONCINI. Well, Mr. Commissioner, thank you. It has been a good hearing and I wish we had another 2 to 3 hours, but we don't. I know you need to get back to work at the office. I have questions from Senator Kerrey, from Senator Mikulski, from Senator Byrd, Senator Domenici, and a hefty set from myself, which I will ask you to respond to for the record.

Mr. MURPHY. Fine. We will be happy to respond to those and we appreciate your support.

Senator DECONCINI. Thank you very much. It was a very good hearing.

Mr. MURPHY. Thank you, Mr. Chairman.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR DECONCINI

Taxpayer Service

Senator DeConcini: We are presently in the midst of your 1989 filing season. What is the average time it is taking to get refund checks back to taxpayers? Do you foresee any significant problems that may arise as we get closer to April 15?

Mr. Murphy: The average for issuing a refund check is six to eight weeks. We do not anticipate any significant problems between now and April 15.

IRS: REVENUE ESTIMATE

Senator DeConcini: What was your original revenue estimate for Fiscal Year 1989 and what are you now projecting?

Mr. Murphy: The original Fiscal Year 1989 revenue projections for IRS collections net of refunds was $910 billion. The current estimate is $912 billion.

Senator DeConcini: You have a request pending before the Congress to transfer approximately $74 million from Examination and Appeals into Returns Processing and Taxpayer Service. If approved, what additional impact will this transfer of funds have on your revenue estimates in FY 1989?

Mr. Murphy: Revenue estimates would not be affected by this transfer. This was an adjustment previously accounted for in FY1988, and within the November 1987 Bipartisan Budget Agreement assumptions.

TAXPAYER BILL OF RIGHTS AND FY 1990 REVENUE ESTIMATES

Senator DeConcini: Last year we passed the Taxpayer Bill of Rights. Will the new requirementsplaced on the IRS, for example, the issuance of

Taxpayer Assistance Orders, affect the IRS, FY 90 revenue estimates?

Mr. Murphy: The estimates of federal receipts are done by the Office of Tax Analysis in the Department of the Treasury. The Office of Tax Analysis has estimated that the negative impact on federal collections in FY 1990 attributable to the Taxpayer Bill of Rights is $30 million. This estimate is included in the FY 1990 President's Budget along with the other affects of the Technical and Miscellaneous Revenue Act of 1988.

Senator DeConcini: The Senate report also contained language indicating that the 4 percent transfer authority was necessary, but not if a transfer would result in a net loss of revenue yield. Will the proposed transfers have any impact on your projected revenue stream?

Mr. Murphy: There would not be a negative effect on our projected revenue stream as a result of these transfers.

Sen. DeConcini: What is your existing audit coverage for individual returns and how does that compare to the coverage for business returns? What is your projected audit coverage for business returns in FY 1990?

Mr. Murphy: In FY 1988, the overall audit coverage for individual returns was 1.02%, while the audit coverage for corporate tax returns was 1.37%. Our FY 1990 budget estimates individual tax returns audit coverage at 1.23%, and corporate tax return audit coverage at 1.99% These FY 1990 coverage estimates are based on the assumption that all costs related to maintaining the staff-years in the budget can be covered in FY 1990.

Sen. DeConcini: In your original request to the Department, would audit

coverage have increased, and if so, by what amount?

Mr. Murphy: In our original request to the Department, we estimated that the audit coverage for the entire Income, Estate and Gift Examination program would be 1.26% in FY 1990 as compared to the estimate of 1.23% in the Congressional Submission.

STAFFING AT SERVICE CENTERS

Sen. DeConcini: Can you tell me what your on-board staffing for each of your service centers is in FY 89? How does this compare to your FY 90 projections?

Mr. Murphy: I have the breakdown of on-board staffing for all ten of our service centers for Fiscal Year 1987, 1988 and 1989. These figures represent the on-board staffing levels as of the beginning of March for each fiscal year. I also have a projection of what our FY 1990 on-board staffing levels might be during the middle of the filing season. The FY 1990 projection would of course be higher than our requested FTE levels for the service centers because our onboard levels are highest during the filing season. These are preliminary projections for the service centers since the actual workplans will not be finalized and approved until sometime this summer.

Service Center On-Board Staffing Levels
Beginning of March

Service Center	FY 1987	FY 1988	FY 1989	FY 1990 Projected
Andover	3,597	4,590	4,296	4,301
Brookhaven	4,589	4,870	4,979	4,979
Philadelphia	4,464	5,192	5,610	5,615
Atlanta	4,870	5,397	4,739	4,744
Memphis	3,601	4,075	4,108	4,112
Cincinnati	4,005	4,134	5,491	5,498
Kansas City	3,468	3,753	4,515	4,519
Austin	5,297	5,766	5,352	5,358
Ogden	5,147	5,236	5,298	5,302
Fresno	5,089	6,050	5,802	5,806
Total	44,127	49,063	50,190	50,234

Senator DeConcini: Can you provide a breakdown of on-board staffing for the month of March in the last three fiscal years for your service centers?

Mr. Murphy: Yes: on-board for 3-28-87 was 45,025; for 3-26-88 was 51,020; and, for 3-25-89 staffing was 46,793.

Sen. DeConcini: With the hiring freeze and the shift in personnel from Examinations to Processing, can you tell me what has been the effect on management levels? Could you give me a breakdown in the number of supervisors assigned to examinations and tell me whether or not these numbers have increased, decreased or stayed the same over the past two fiscal years?

Mr. Murphy: We have imposed a hiring freeze on the Examination function and have shifted overall dollar resources internally from a variety of sources to insure continued tax processing. While service centers may be making some transfers to meet local conditions, no broad staffing shifts between Examination and Returns Processing have been directed. We are reducing Examination resources by means of attrition, and have instructed our field offices to keep management levels in balance with available staffing. There are approximately 500 managerial positions in the Examination service center operations in FY 1989, which is about the same level of staffing achieved in FY 1988.

Sen. DeConcini: What will be the impact on audit coverage if this transfer is approved?

Mr. Murphy: We have not yet projected potential attrition at service centers because we have no recent experience with a freeze on Examination positions at the center. Consequently, we are unable to estimate the workload impact at this time.

AUTOMATED DATA PROCESSING MODERNIZATION

Sen. DeConcini: The remaining $102.3 million of the $289 million increase will be used to continue Automated Data Processing Modernization efforts in FY 90. What specific activities will you undertake with this $102.3 million and where will this place the IRS, VIS-A-VIS your long-term modernization plan?

Mr. Murphy: Of the $102.3 million increase for the continuation of the Automated Data Processing Modernization effort $79.8 million is controlled by the Assistant Commissioner Information Systems Development and is broken down as follows:

IS-04 - Long Term Redesign of the Tax Administration System ($17,753)

This initiative will provide systems engineering support services and will be acquiring contractor support services needed to translate the target architectures into specific systems, subsystems, and interfaces; perform systems engineering options analyses for those systems and subsystems; develop transition strategies to ensure the evolution from the current system to the target environment; and define policies for program-level acquisition processes.

IS-06 - Input Processing Redesign ($2,475)

Input Processing Redesign plans to release the Document Processing System Request for Proposal (RFP), to review vendor proposals in anticipation of contract award in FY 1991 for the first developmental/pilot system, and to continue prototyping efforts for the following:

Document Processing System - (the paper process) The current processing system is a conventional paper based system using computer technology acquired in the late 1950's. By using state-of-the art Optical Character Recognition Devices (OCR), DPS will create an image based tax processing and storage system. Prototyping

efforts to support the DPS are as follows:

- AUTO-PIPELINE PROTOTYPE: The Auto-Pipeline testing will consist of capturing a tax return image, converting the return image to machine-readable data using the techniques being developed during the High Speed Data Capture Prototype. These techniques will perform error resolution and consistency checks, ensuring that the data can be posted. The system will display a tax return image utilizing the technology being developed by the Multi-Media workstation prototype.

- HIGH SPEED DATA CAPTURE PROTOTYPE: This prototype will test the feasibility of character recognition from tax return image. The expected result of this prototype will be the means to identify and read data in a rapid and error-free manner.

- MIXED MEDIA WORKSTATION PROTOTYPE: The prototype will provide guidelines for non-pipeline IRS activities to access stored images, by providing standards for the necessary equipment to allow retrieval of the digital images in storage.

- AUTOMATED DOCUMENT HANDLING PROTOTYPE: This prototype will investigate ways to minimize intensive paper handling activities in IRS Service Centers, and will oriented to feeding the Document Processing System.

IS-07 - Servicewide Citator System ($6,355)

Citator is a Servicewide initiative, with the project office established in ISD. The development of the RAP (Requirements Analysis Package) is in the final stages prior to submission of the APR (Agency Procurement Request). The Information Systems Policy Board reviewed the design and requirements in fall 1988. A project charter is being drafted for ISPB approval. A draft RAP was sent to the Deputy Assistant Secretary for

Information Systems, Treasury Department, in June 1988 for review, the Department has been briefed on progress to date. The NIST (National Institute of Standards and Technology) has developed a fully operational prototype for Citator, which is scheduled for completion in April 1989. The prototype now includes IRS Publication 17 and Title 26 data for test purposes, and is scheduled to add Tax Court cases to the database in February 1989.

IS-08 - Service Center Support System ($24,357)

Service Center Support System (SCSS) plans include equipment acquisition, application development for start-up and active projects, and transition planning and integration of Service Center Departmental Systems. This will provide relief to anticipated pressure on computer capacity in the service centers.

IS-09 - Corporate Files On-Line ($28,858)

Corporate Files On-Line (CFOL) plans to implement the On-Line Entity (OLE) project; to incorporate portions of the Mirror-Image concept as part of the CFOL decentralization plan for the Detroit and Martinsburg Computing Centers; to install additional Communications Replacement Systems (CRS) equipment to handle the additional message traffic caused by OLE and other enhancements; to begin acquisition for FY 1991, including RFPs, site preparation, benchmarks and proposal evaluations.

The remaining amount is made up of initiatives with various other sponsors. They are:

CS-05 - National Office Computer Services Staffing and Support $1000
CS-14 - Field Automation Support (TMAC-DMAC) $2,245
CS-37 - Migration to New Tape Drive Technology $1,758

E-02 - EP/EO Determination System $ 132

TR-03 - T:R Executive Information and Communication System $ 90
TR-11 - Federal Tele-Tax Information System $ 653
TR-15 - Electronic Deposit Proc. System $2,068
TR-19 - Check Handling Enhance and Expert System $4,122
TR-32 - OCR Replacement Systems $5,214
TR-35 - Taxpayer Service Manag. Information System $ 300
TR-36 - Visually Impaired Systems $2,455

CI-04 - Crim. Inv. Ntnwide Radio Sys. Replace $2,500

The acquisitions, prototyping, contract support, etc. outlined above are the initial steps toward the full implementation of the redesigned tax administration system. This early activity provides the backbone for all future development. The service will have its Target Architecture identified as scheduled in September, 1989, and an integration support contractor will assist the Service in assuring the complete integration of all systems.

Sen. DeConcini: Will there be any direct savings in FY 1990 as a results of these efforts? If so, how much?

Mr. Murphy: There will be no direct savings during FY 1990.

Senator DeConcini: The Bush Budget, while claiming to support the Reagan budget for the IRS, also proposes a flexible freeze. If a freeze was applied to the IRS in FY 90, what would be the impact?

Mr. Murphy: The budget initially proposed by President Reagan requested an increase of $289 million for IRS. If this increase were denied, major reallocations would be required, with cutbacks to virtually every IRS program. The initiatives to collect an additional $318 million in tax revenues would have to be dropped along with our plans to modernize our tax processing system. Likewise, improvements in

service to taxpayers, including efforts to increase accuracy in answering telephone questions and in responding to taxpayer correspondence would have to be foregone. For this reason these initiatives have been a top priority of the Administration during budget negotiations.

To meet inflationary and other uncontrollable cost increases, IRS will have to cut its existing staff by 1,700 jobs.

ADP Non-Recurring

Senator DeConcini: Your budget justification for FY 90 shows non-recurring costs of approximately $132 million from staff support, automated data processing and completed phases of tax reform. What troubles me is that you are non-recurring about $112 million in various Automated Data processing projects that were funded in Fiscal Year 1989. How much have we already spent on the projects that are being deferred and does the deferral mean it is money down the drain?

Mr. Murphy: As of FY 1989, we have budgeted a total of $294 million for the projects that are being deferred.

In FY 1990, there has been a major administration policy change with regard to IRS automation. The emphasis in systems modernization shifted from tax enforcement and compliance to those systems that involve automation of broader IRS tax processing systems, such as Tax System Redesign.

Of the $112 million non-recurred, the Automated Examination System (AES) encompasses $79 million of the deferred amount. The deferral of the other projects such as Integrated Collection System, Electronic Filing and Integrated Management System will not be a matter of "resources down the drain." Because of Administration FY 1990 fiscal constraints,

it was necessary to defer resources in projects that would have the least amount of impact to the Internal Revenue Service's mission.

IRS: ELECTRONIC FILING SYSTEMS

Sen. DeConcini:

Your testimony states that you are encouraging taxpayers to move to electronic filing of their tax returns. Electronic filings, as I understand it, can only be done through a practitioner and for a fee. What is the average fee individuals are charged for electronic filing?

Mr. Murphy: A taxpayer can only have his return electronically filed by an accepted electronic filer. Although the IRS does not charge a fee for participating in electronic filing, most tax preparers do charge an additional fee for providing this service to their clients -- some do not. We really do not know what the fees are; we do not track them. Our only concern is that the fees charged must be the same for the same services provided. The only restriction we put upon the electronic filer is that the fee charged for electronic transmission cannot be based on the amount of the refund.

Taxpayers can also prepare their own tax returns and seek the services of an electronic transmitter to transmit the returns electronically. Again, the only restriction is, the fee for this transmission service cannot be based on the amount of the refund.

Sen. DeConcini:

Does the IRS have any plans to assume this role in your own offices so that taxpayers do not have to be charged additional fees by practitioners?

Mr. Murphy: We are exploring the feasibility of offering electronic filing to taxpayers at the District Offices.

DRUG BILL FUNDING

Senator DeConcini: HAVE YOU ANALYZED WHAT RESPONSIBILITIES WILL BE PLACED ON IRS FROM THE ENACTMENT OF THE ANTI-DRUG ABUSE ACT OF 1988?

Mr. Murphy: IRS and Treasury will shortly be presenting our analysis of resources requirements to OMB for approval. This includes how specific provisions of the statute may impact on available Criminal Investigation resources.

Senator DeConcini: ARE ANY FUNDS REQUESTED IN YOUR FY 90 BUDGET TO COVER THE COST OF THESE INCREASED RESPONSIBILITIES? IF SO, COULD YOU IDENTIFY THE AMOUNTS? IF NOT, DID YOU REQUEST ADDITIONAL FUNDS FROM THE DEPARTMENT?

Mr. Murphy: No funds requested in the FY 90 budget are specifically identified as responding to the Anti-Drug Abuse Act of 1988. IRS and Treasury are currently preparing estimates for OMB review.

Senator DeConcini YOUR TESTIMONY INDICATES THAT $56 MILLION IS INCLUDED IN YOUR FY 90 BUDGET FOR CRIMINAL INVESTIGATONS INVOLVING DRUGS. HOW DOES THIS COMPARE TO THE FY 89 LEVEL?

Mr. Murphy: The IRS will devote 1,539 FTE positions and $71 million to drug enforcement in FY 1990. This is the same program level as FY 1989. We assume that Justice will reimburse IRS $14 million in FY 1990 for Organized Crime/Drug Enforcement task forces.

FY 89 Budget for Drug Investigations

Senator DeConcini: **Your testimony indicates that $56 million is included in your FY 90 budget for criminal investigations involving drugs. How does this compare to the FY 89 level?**

Mr. Murphy: In FY 90 we actually plan to devote over $70.0 million when the reimbursement of $14.0 million from the Justice Department for participation in OCDETF is included. This transfer was mandated by the Anti-Drug Abuse Act of 1988.

IRS: SUPPLEMENTAL REQUEST

Senator DeConcini: Are you preparing a supplemental appropriation request for funds to implement authorizations affecting the IRS, and in particular, the provisions in the drug bill?

Mr. Murphy: The IRS is not preparing a supplemental request to the FY 1989 budget. The IRS has proposed to the Treasury Department a FY 1990 budget amendment to fund the increased costs associated with the Technical and Miscellaneous Revenue Act of I989 (TAMRA), the Medicare Catastrophic Coverage Act (MCCA) and the AntiDrug Abuse Act (ADAA). These amendments will shortly be submitted to the Office of Management and Budget for review.

Senator DeConcini: Along with President Reagan's FY 90 budget request, we also received a supplemental request for transfer authority for the IRS. You propose to transfer $32.2 from Examination and Appeals to the Processing Tax Returns, and $41.8 million from Examination and Appeals to Investigation, Collection and Taxpayer Service.

First of all, why is this transfer necessary? Secondly, you have general transfer authority of up to 4 percent between accounts. As I calculate it, the amounts noted above are below 4 percent, so why are you requesting supplemental FY 89 transfer authority?

Mr. Murphy: The FY 1989 budget had been presented by first showing the FY 1988 appropriation, before and after

amounts proposed for transfers, which included $74 million out of Examination and Appeals, $32 million into Returns Processing, and $42 million into Investigation, Collection, and Taxpayer Service. This was immediately followed by presenting FY 1989 increases requested for each appropriation.

The reason for requesting a supplemental transfer, which requires more formal Congressional approval, is to permanently address programmatic shortfalls of serious concern to the Congress, namely timely and accurate processing of tax returns and adequacy of the Taxpayer Service Program. The proposed supplemental appropriation transfers, having a "zero sum" effect, are requested simply to maintain FY 1988 resource levels for processing and service. This will ensure that other funds appropriated for improving service are used for that purpose. It will allow further latitude, if necessary, for requesting Committee approval of additional transfers under the four percent authority, depending on adjustments that may be needed for cost absorptions and for achieving a successful filing season.

IRS: TAX COUNSELING FOR THE ELDERLY

Senator DeConcini: In FY 1989 the committee included language in the treasury bill requiring an amount of not less than $2.8 million to be made available for tax counseling for the elderly. Why are you proposing to eliminate this language and what level do you assume in your FY 1990 budget for these very important activities?

Mr. Murphy: The language concerning tax counseling for the elderly was removed from the FY 1990 President's budget in order to conform to the overall administration objective of keeping appropriation language as simple as possible. The FY 1990 President's budget contains $2.8 million for tax counseling for the elderly, the same level as in the FY 1989 budget.

IRS: MINORITY HIRING

SEN. DeCONCINI: What percent of overall IRS employees are minorities?

MR. MURPHY: Twenty eight and three tenths percent (28.3%) as of the end of Fiscal Year 1987, and 29.6% as of the end of Fiscal Year 1988. These percentages amount to approximately 26,000 and 30,500 respectively for Fiscal Years 1987 and 1988. Total minority percentage of the Civilian Labor Force is 18.35%. Representation of Blacks and Asians in IRS exceeds the civilian labor force percentage, and IRS representation of Hispanics and American Indians is slightly less than the civilian labor force.

SEN. DeCONCINI: Could you provide the Committee with a breakdown of your minority employees by race?

MR. MURPHY:

	FY 1987	FY 1988
Black	18,147	21,260
Hispanic	5,363	6,203
Asian	2,131	2,523
American Indian	429	537

SEN. DeCONCINI: Could you also provide the Committee with a breakdown of those minority employees who are holding managerial positions?

MR. MURPHY:

	FY 1987	FY 1988
Black	1,436	1,446
Hispanic	376	430
Asian	145	156
American Indian	44	49

Executives (SES)

	FY 1987	FY 1988
Black	17	20
Hispanic	4	5
Asian	0	1
American Indian	0	0

SEN. DeCONCINI: What are you doing to recruit additional minorities for positions within the IRS?

MR. MURPHY: The Service has a number of initiatives underway to enhance our efforts in recruiting additional minorities . Some are as follows:

- A faculty support program with Historically Black Colleges and Universities.
- Special training sessions in minority communities to provide assistance with the federal government application process.
- Adopt-A-School Programs in minority communities.
- Collaboration with National Association for Equal Opportunity in Higher Education to create higher education programs that will ensure students are qualified for accounting, economics, computer sciences and other technical positions with IRS. The aim is to increase the flow of highly qualified students from minority and economically deprived families into the mainstream of our society.
- Employees serving as short term exchange professors through the National Urban League's Black Executive Exchange Program.
- Development of educational programs directed to the Hispanic, Native American and Asian Pacific communities; such as, relocation/mobility, preparatory skills for government employment, the Federal government as a career, etc.

- Recruitment at minority national conventions.
- Utilization of minority media (radio and newspapers).
- Development of recruitment brochures to reflect the population of the community.

During the past eighteen months we have held special meetings with our women executives, Black executives, and Hispanic managers to discuss equal employment opportunity and how to best enhance opportunities for minorities and women.

SECTION 89

Sen. DeConcini: The IRS has estimated that it will require 9 million man hours to comply with section 89. Has the Office of Information and Regulatory Affairs made a similar estimate?

Mr. Murphy: To the best of my knowledge, the Office of Information and Regulatory Affairs (OIRA) has not made an estimate of the number of hours required to comply with section 89. The Service's estimate, contained in the proposed regulations was informally discussed with the Office of Information and Regulatory Affairs prior to publication of the regulations.

OIRA is currently reviewing the recordkeeping requirements contained in the proposed rule under the provisions of the Paperwork Reduction Act. OMB and IRS will take into account public comments received on the recordkeeping burden and will consider whether any revision in the estimate is indicated.

Sen. DeConcini: Has the IRS also estimated the cost of compliance and whether the cost would result in increased tax expenditures by individual companies?

Mr. Murphy: The IRS does not have any figures estimating the cost of compliance or possible tax expenditures by

individual companies at the present time. Such estimates are generally not done for tax programs by either the Service or the Department of Treasury. However, in an effort to better assess the effect of the statute and proposed regulations, the preamble to the regulations requests comments on the expected effect on costs to employers and health providers resulting from section 89 requirements.

Sen. DeConcini: If the purpose of section 89 is to broaden coverage, has the IRS estimated the impact on employee coverage as a result of section 89?

Mr. Murphy: As you have indicated, one purpose of section 89 is to encourage broader coverage of employees, and particularly of rank and file employees under the employee welfare benefit programs offered by employers. In general, section 89 is first effective for plan years commencing in 1989 and employers are just starting to look at the interaction between the statutory requirements and their existing employee welfare benefit arrangements. Thus, it is really too early to predict the extent to which the purpose of broadening coverage will be achieved.

Sen. DeConcini: If the purpose of section 89 is to raise revenue by taxing fringe benefits, has the IRS estimated how much additional revenue it will be raising, and how much of the increased revenue will be offset by increased compliance costs, which are themselves deductible?

Mr. Murphy: The Service has not been involved in any of the revenue estimates made with respect to section 89. The General Explanation of the Tax Reform Act of 1986 issued on May 4, 1987, estimates revenue at $494 million over a four year period commencing in 1988. Although section 89 was substantially revised in the Technical Corrections and Miscellaneous Amendments Act of 1988, no significant change to the revenue estimate was anticipated by the drafters. As to whether the revenue will be offset by

increased deductible compliance costs, it is important to note that many of these costs, while deductible to the employer paying them will be included in the income of the recipient individual or entity.

OMNIBUS TAXPAYER BILL OF RIGHTS

SEN. DECONCINI: The Taxpayer Bill of Rights requires the establishment of an Assistant Commissioner for Taxpayer Services to oversee: telephone communication, walk-in and taxpayer educational service, and form production and design. Has the office been established and has an Assistant Commissioner been designated?

MR. MURPHY: The Office of the new Assistant Commissioner (Taxpayer Services) has not yet been formally established and an Assistant Commissioner has not yet been named. However, the Service has submitted the decisions concerning this important office to Treasury for approval, and the mechanisms are in place for prompt implementation as soon as the Department's review is completed. The new Assistant Commissioner should be announced by the statutory provision's effective date of May 9, 1989.

SEN. DECONCINI: Have you implemented the other requirements of the Taxpayer Bill of Rights? What are the budget implications? Can you provide this Subcommittee with a complete implementation plan of how and when each requirement will be fulfilled and the costs attendant to each action?

MR. MURPHY: The IRS is currently working on an implementation plan for the Technical and Miscellaneous Revenue Act of 1988, which includes the Omnibus Taxpayer Bill of Rights. Because many of the provisions in the Taxpayer Bill of Rights are not effective for several more months, the plan has not been finalized at this time. Once the plan is finalized, we will be happy to send a copy of it to the Subcommittee.

As you are aware, the Taxpayer Bill of Rights did not provide funding for the many actions needed to implement the

legislation. Therefore, the IRS will absorb these costs for FY 1989. In conjunction with the development of the implementation plan, the IRS has also been reviewing the added costs associated with the Taxpayer Bill of Rights' provisions. Our cost estimates are being prepared based on our planned implementation actions, and will be submitted to OMB for review along with other cost estimates related to the 1988 technical amendments to the Tax Reform Act.

IRS: THE TAXPAYER BILL OF RIGHTS

Senator DeConcini: **Potentially, the most costly features of the taxpayer bill of rights are the following: the award of court costs and attorney's fees for prevailing parties, civil damages for failure to release a lien and civil liability for damages due to unauthorized acts of the IRS. What is the amount of liability to the government that you anticipate?**

Mr. Murphy: **The IRS estimates a liability of $1.3 million for the awarding of court cost and attorney fees for prevailing parties, $1.0 million for civil damages for failure to release a lien, and $0.8 million for civil liability for damages due to unauthorized acts of the IRS.**

DRUG BILL FUNDING

Sen. DeConcini: Last year we asked the IRS to identify revenues which could be generated if the agency was given additional resources to increase tax collection and audits of returns. This question was asked in reference to the funding requirements for the drug bill which was being debated at the time. I recall that you responded that you could raise an additional $206.4 million if we gave you an additional $103.9 million at the beginning of FY 1989.

Could you provide a similar estimate for 1990 if additional funds were provided over and above the $55 million requested in your FY 1990 budget?

Mr. Murphy: In conjunction with the Bipartisan Budget negotiations, IRS identified an additional set of revenue initiatives over those proposed in the budget. They would generate another $150 million in the first year at a cost of $58.5 million. The difference between last October's estimate and the current set has to do with the amount of preparation time for hiring, the "mix" of initiatives, and a continuing evaluation of revenue estimating models.

Average Refunds

Senator DeConcini: The 1986 Tax Reform Act was intended, among other things, to simplify the tax code. Part of that effort was to reduce refunds by more closely putting withholding to taxes owed. How does the 1988 tax year average refund of $833 compare with pre-TRA average refunds?

Mr. Murphy: The refunds for individual income tax returns are averaged each fiscal year. The fiscal year averages are: for 1988 = $921; 1987 = $943; 1986 = $946; and, 1985 = $866. So far this year, the average refund is $833, but this figure is subject to change at the end of the fiscal year.

QUESTIONS SUBMITTED BY SENATOR DECONCINI AND SENATOR DOMENICI

ADP REQUIREMENTS

Since its inception in 1982 through the end of fiscal year 1988, IRS has spent approximately $200 million to develop an Automated Examination System (AES) for the purpose of increasing the productivity of revenue agents and others engaged in the examination of taxpayer's returns. To this end, AES has placed approximately 18,000 laptop computers in the field, along with associated computer programs to assist in the examination of tax returns. In FY 1990, the requested funding has been reduced to about $19.5 million, and we understand that the project is currently being reevaluated.

Sen. DeConcini&
Sen. Domenici: a) Why was funding for the AES project cut back in fiscal Year 1990? Does the need for reevaluation indicate a problem with the project?

Mr. Murphy: Although the Office of Management and Budget allocated an almost identical funding level for the total IRS Information Systems Budget in FY 1990 as it had in FY 1989 (approximately $930 million), the proposed distribution of these funds reflected a major administration policy change with regard to IRS automation. The emphasis in systems modernization shifted from tax enforcement initiatives to those initiatives that involve automation of broader IRS tax processing systems, that is, Tax System Redesign. Our project reevaluation is focusing on the effect reductions will have on the timing and sequencing of project components. We believe the fundamental systems architecture is sound and in concert with the IRS' long range Tax System Redesign effort. This reassessment is necessary to plan the most effective utilization of the limited monies expected in the coming years.

Sen. DeConcini& Sen. Domenici: b) Until the evaluation is complete, is the $19.5 million adequate to ensure the usefulness of the laptop computers? Specifically, can you update and modify the existing computer programs for such things as changes in the tax laws? Can you maintain the existing laptop computers, and upgrade them with hard disks as planned?

Mr. Murphy: Remaining funds for AES ($19.5 million) will cover only core maintenance of existing hardware and software. We will be able to update current programs for law changes. We will be required to slip our schedule for procuring hard disk replacements by one year. Included in this amount are field support personnel necessary to assure maintenance and assist employees on equipment and software application questions. Any remaining project needs in FY 1990 above the

budgeted amount will be addressed by reassessing overall priorities or adjusting project requirements.

Sen. DeConcini& Sen. Domenici: During last year's budget hearings, you stated that productivity savings resulting from AES in FY 1987 were to be applied to examine additional returns, which you estimated would generate additional assessments, penalties, and interest of $89 million. How much of these estimated benefits have now been realized? How did you measure these benefits? How did you determine the estimated $89 million additional revenue? What is the impact of the reevaluation on future savings?

Mr. Murphy: There are no means available by which precise savings attributable to AES in FY 1987 may be calculated. A tracking system was devised to record the actual use of AES in FY 1987, but the results of the year-end report (the only report generated by the system) indicated serious problems with the system. In fact, a review of the tracking system found several systemic errors and that it was not well accepted or used by the revenue agents themselves. These problems could not be identified or rectified during the year because no data was available until the end of the year. Similar problems continued into FY 1988, and we are attempting to devise a means of more accurately tracking the true impact of AES. A study of the use and impact of AES on completed examinations from three districts in each of the seven regions was recently conducted, and the final report is expected to be released in April. It should also be noted that a number of factors, not just AES, impact on the yield of revenue agent examinations. Major tax law changes and the hiring of a large number of new agents both played significant

roles in FY 1987 and 1988. The estimated revenue for FY 1987 was based on the projected improvement in productivity for revenue agents resulting from the use of AES. The job of a revenue agent was broken down into separate tasks, to reflect what they did and how often they performed such tasks. Through interviews with developers/users of the software applications (those familiar both with what the applications would do and the job of a revenue agent), times savings, if any, for each task was estimated. The improvement in productivity was the sum of the time savings for each task multiplied by the percentage of time an average agent would spend on the task. This productivity factor was used by the Examination Planning and Research Office to calculate the yield of the reapplication of these time savings.

ADP REQUIREMENTS

SEN. DECONCINI: and SEN. DOMENICI: Your document, entitled "New Initiative Summary" (which is a part of your Strategic Business Plan) states that the reliability of the present tape drives at the Martinsburg Computing Center (MCC), which are used to process taxpayers' master files and refunds, is becoming a major concern. In addition, it states that storage space at the MCC tape library is nearly gone. You have established project CS-37, "Migration to Current State-of-the-Art Tape Drive" to address these issues. At the beginning of Fiscal Year 1989, this project's authorized spending was reduced to $938,000 from the requested $2,625,000. Because of the significant reduction in FY 1989 funding, it would appear that this project has been delayed or possibly scaled back.

Why was there a need to scale back the project in FY 1989? Does the reduced funding indicate a problem with the project?

MR. MURPHY: This project was not scaled back. Acquisition plans for the tape cartridges have changed from a direct buy to a 36-month lease to purchase (LTOP).

SEN. DECONCINI: and SEN. DOMENICI: What is the total cost of this project?

MR. MURPHY: The total systems life cost (10 years) for this initiative is approximately $28 million. This includes lease costs of $18.3 million, maintenance costs of $8.9 million and support costs of $0.8 million.

SEN. DECONCINI: and SEN. DOMENICI: What actions were deferred because of the FY 1989 cuts?

MR. MURPHY: None.

SEN. DECONCINI: and SEN. DOMENICI: What is the current status of the tape drive replacement program?

MR. MURPHY: The Agency Procurement Request (APR) is in GSA awaiting approval for the Delegation of Procurement Authority (DPA) issuance.

SEN. DECONCINI: and SEN. DOMENICI: How long will the existing tape drives be able to process taxpayer files in a timely and reliable manner?

MR. MURPHY: Indefinitely - as long as we want to pay the ever increasing maintenance cost due to the decrease in tne meantime between failures.

SEN. DECONCINI: and SEN. DOMENICI: To what extent is MCC tape library space inadequate, and how have you estimated your space requirements? What will you do to ensure the safe storage of masterfile tapes and other tapes?

MR. MURPHY: There is no room for expansion in the tape library; therefore, tapes are being stored off-site. We are concerned over the future space requirements of our tape library, which is based on historical record increases 15% annually. Storage safety is ensured with an on-site and off-site security storage area. The on-site

vault stores 3 cycles of masterfiles and other tapes. The files are constantly recirculated and only the oldest are eliminated. Because of this procedure, secure storage of tapes are not a concern.

SEN. DECONCINI: and SEN. DOMENICI: Will the replacement tape cartridge drives be used with the Corporate Files on Line that are part of the Tax System Modernization, or are they solely an interim measure?

MR. MURPHY: They are not an interim measure. They will be used extensively for CFOL.

FY 1990 ADP and Information Technology

Senator DeConcini and Senator Domenici: In FY 1990, you are requesting about $930 million for approximately 91 separate ADP projects. How much do you plan to spend for development of new systems, and how much is for the maintenance and operation of the Existing Systems? Do you have any "No-Year" funds available? If so, please provide us with the amount by Fiscal Year and the projects for which the funds apply.

Mr. Murphy: For Fiscal Year 1990, the Service is requesting $333 million for the development of new systems and $600 million for the maintenance and operation of existing projects.

Major developmental efforts being undertaken for Fiscal Year 1990 include $234 million for tax system modernization, $33 million for the replacement of the current Data Communciations Processing System, $23 million for the enhancement of the Service's information systems, and $12 million for the Integrated Collection System.

All of the Service's ADP "No-Year" funds for Fiscal Years 1983, 1984 and 1986 have been obligated. On December 31, 1988, $10.3 was still available for FY 1987 and $9.2 million was unobligated for FY 1988.

However, based on the requisitions that are currently in the procurement system, and recent spending plans, I have been assured that all remaining ADP No-Year funds, regardless of Fiscal Year, will be expended by September 30, 1989.

Attached is a chart reflecting the FY 1987 and 1988 No year funding by ADP project.

INTERNAL REVENUE SERVICE
NO-YEAR FUNDING FOR SYSTEMS MODERNIZATION
($000's)

PROJECT TITLE	FISCAL YEAR 1987			FISCAL YEAR 1988		
	PLAN	OBLIGATED 12-31-88	UNOBLIGATED BALANCE	PLAN	OBLIGATED 12-31-88	UNOBLIGATED BALANCE
PLAN 246						
TAX PROCESSING MAINFRAME	4,729	2,678	2,051	0	0	0
IDRS TERMINAL/DCPS REPLACEMENT	7,535	7,714	(179)	0	0	0
CHECK SORTING	414	0	414	0	0	0
BAR CODES	52	53	(1)	0	0	0
TAPE DISPLAY DEVICES-NCC	254	126	128	0	0	0
OCR MULTIFONT	1,533	1,532	1	0	0	0
SCAN/FUTA	688	688	0	0	0	0
AUTOMATED EXAMINATION SYSTEM	17,175	14,782	2,393	4,128	0	4,128
AUTOMATED WORKLOAD MGMT SYSTEM	170	170	0	0	0	0
ADP CAPACITY PLANNING	70	20	50	0	0	0
COBOL CODE GEN PEF	27	0	27	0	0	0
A/C COMPUTER SERVICES	380	81	299	0	0	0
AUTOMATED CID PROJ	150	150	0	0	0	0
AUTOMATION FOR SYSTEMS TESTING	363	339	24	0	0	0
FY88 2ND FINANCIAL REVIEW	950	950	0	0	0	0
TR04 DISTRIBUTED INPUT SYSTEM	0	0	0	1,539	0	1,539
TR20 OCR-RPS	0	0	0	75	0	75
PLAN 593						
AABES	39	23	16	0	0	0
RESEARCH TIMESHARING	123	123	0	0	0	0
PLANNING DIVISION OFFICE AUTOMATION	31	16	15	0	0	0
AUTOMATED TRAINING SYSTEM	236	236	0	0	0	0
CIDS	572	573	(1)	0	0	0
CAPS	401	400	1	0	0	0
HR NETWORK	82	44	38	0	0	0
PAYROLL	18	21	(3)	0	0	0
ICADS	187	192	(5)	0	0	0
OFFICE AUTOMATION	577	318	259	0	0	0
TAX SYSTEM REDESIGN	2,243	2,021	222	0	0	0
CAAP - PRIMARY	485	178	307	0	0	0
EP/EO DETERMINATION SYSTEM	364	59	305	0	0	0
AUTOMATED COLLECTION SYSTEM	3,977	170	3,807	0	0	0
INTEGRATED COLLECTION SYSTEM	273	273	0	0	0	0
VISUALLY IMPAIRED	51	27	24	0	0	0
TIMS-B	705	706	(1)	0	0	0

PROJECT TITLE	FISCAL YEAR 1987 PLAN	OBLIGATED 12-31-88	UNOBLIGATED BALANCE	FISCAL YEAR 1988 PLAN	OBLIGATED 12-31-88	UNOBLIGATED BALANCE
ISMIS II	134	129	5	0	0	0
FY88 2ND REVIEW REDUCTION	949	949	0	0	0	0
TR-21 RP&A ADP	0	0	0	170	0	170
TR34 ATSS	0	0	0	686	0	686
TR35 TSMIS	0	0	0	92	0	92
CI-01 CRIMINAL INVESTIGATION ADP	0	0	0	100	0	100
COINS	0	0	0	239	0	239
AUTOMATED COLLECTION SYSTEM	0	0	0	135	0	135
ICS	0	0	0	1,505	0	1,505
ARTIFICIAL INTELLIGENCE EQUIPMENT	0	0	0	156	0	156
TAB SOFTWARE	0	0	0	89	0	89
EXECUTIVE SECRETARIT				250	0	250
FP 591						
SERVICE CENTER ACCOUNTS RECEIVABLE	302	302	0	0	0	0
COMPUTER ASSISTED DESIGN	50	0	50	0	0	0
COMPOSITE MAIL PROCESSING SYSTEM	841	841	0	0	0	0
WESTERN AREA DISTRIBUTION CENTER	1,535	1,535	0	0	0	0
SYSTEM FOR CONTROLLING ASSESS. AND NOTICES	800	781	19	0	0	0
CRIMINAL INVESTIGATION PROJECTS	535	535	0	0	0	0
CRIMINAL INVESTIGATIONS PROJECT CI04	0	0	0	531	531	0
	50,000	39,735	10,265	9,695	531	9,164

TOTAL UNOBLIGATED BALANCE: $20,123 *

NOTE: There is $50 in unallocated funds for FY88 no-year.

There are two projects that have FY85 no-year authority, both in Appropriation I:
Study on Abusive Use of Tax Havens ($500) and 1986 General Purpose Opinion Survey ($500).
As of 9-30-88 there were $856 in obligations.

There is one project that has FY88 no-year authority in Appropriation I: Customer Needs Survey ($500).

IRS FUNDING SHORTFALLS

Sen. DeConcini and Sen. Domenici: We understand that the IRS will experience a shortfall of about $320 million in Fiscal Year 1989. Apparently, some of that shortfall is due to unfunded costs (such as the 1989 Federal pay pay raise of 4.1 percent, increased retirement and health benefit costs, and a postal rate increase) while the rest is due to unfunded program changes that the IRS wanted to implement this year to improve taxpayer service and to reconcile more wage reports under the Combined Annual Wage Reporting program. To help offset the 1989 shortfall, we understand the IRS has implemented a hiring freeze.

How will the IRS' hiring freeze affect the Service's ability to do its job in Fiscal Year 1989? Please provide details, such as the number of audits that will go undone, the number of delinquent accounts that will go uncollected, the number of taxpayers that will go unserved, and the amount of revenue that will go unrealized.

Mr. Murphy: Yes, the Service is absorbing increased pay costs, employee benefits, and other costs. We are also augmenting our resources to process tax returns and to provide direct service to the taxpayer.

To accomplish this absorption, the IRS is cutting back on the acquisition of equipment and supplies, and lowering the levels of contract services, telecommunications, employee relocation, training, administrative travel, and office relocation. We have also instituted a hiring freeze on all programs except for those involved in direct filing season efforts. Our objective is to minimize the impact on front line operations and lessen any effect on revenue receipts.

Sen. DeConcini and Sen. Domenici: Budgetary shortfalls because of unfunded pay raises and the like are not unusual. What does the IRS do, if anything, to prepare for those eventualities?

Mr. Murphy: This year's budget shortfall is unusually high. In Fiscal Year 1989 we are required, by statute, to absorb the Federal pay raise. This absorption has contributed to our current funding situation. In addition, other IRS labor costs have been rising and, as they have not been funded, add to the shortfall. Included in this category are the new retirement system (FERS), special salary rates for certain employment categories, increased health benefits, and a restructured grade alignment. Furthermore, we had no choice but to improve the quality and accuracy of service to the taxpayer by increasing resources in this area.

The IRS, as most agencies, does not routinely set aside reserves for contingencies in the budget formulation process. We do try to budget for inflationary costs and legislative changes but this is difficult one to two years in advance of actual expenditures. Many new laws are enacted after our budget is prepared and sent to the Administration and Congress for review and approval.

Senator DeConcini
and
Senator Domenici: Please identify any recently-enacted legislation that is expected to have an impact on IRS' operations but the impact of which is not reflected in the fiscal year 1990 IRS budget request.

Mr. Murphy : New legislation, not contained in our FY 1990 budget request, encompasses the following acts:

I. Medicare Catastrophic Health Care Act

II. Technical and Miscellaneous Revenue Act of 1988

III. The Anti-Drug Abuse Act of 1988

Senator DeConcini
and
Senator Domenici: What are IRS' estimates as to the fiscal year 1990 costs associated with implementing each of those pieces of legislation?

Mr. Murphy: These new tax laws will require the IRS to implement new programs or to expand existing ones. None of the

recent laws authorized additional resources for the IRS.

In addition, the recent budget proposals made by President Bush include tax law changes (child care, energy, research and experimentation, capital gains, etc.). If these are enacted, they will impact on IRS operations and resources.

The IRS estimates are currently being reviewed by Treasury, and will then be forwarded to OMB for approval.

Senator DeConcini and Senator Domenici: How does the IRS expect to fund these costs?

Mr. Murphy: Since we are still reviewing funding requirements and funding options, it is premature to speculate on specific programs which may have to be reduced. However, without additional resources, IRS will have no choice but to cut back in many programs to implement the new legislation.

Senator DeConcini and Senator Domenici: If IRS is unable to obtain additional funding to cover those costs, how will existing programs and services be affected?

Please be specific.

Mr. Murphy: We are reviewing different alternatives with Administration officals including the possibility of requesting additional funding and/or reallocation of existing resources.

REPROGRAMMING OF FY 1989 FUNDS

Sen. DeConcini and Sen. Domenici: IRS' Fiscal Year 1990 budget submission states that in Fiscal Year 1989 IRS plans to reprogram funds, if necessary, in order to maintain a level of taxpayer service commensurate with Fiscal Year 1988.

Has any reprogramming been necessary? If yes, please provide details on the amount reprogrammed, the source of the reprogrammed funds, and the extent to which other IRS activities will be adversly affected by the reprogramming.

How much additional reprogramming, if any, does the IRS anticipate will be required before the end of the fiscal year?

Mr. Murphy: Throughout the current filing season, the IRS has attempted to maintain a level of taxpayer service that is comparable to what we provided in FY 1988. However, maintaining this level of service has caused our resource utilization rates to exceed last year's pace. In order to continue to provide this level of taxpayer service thoughout the remainder of the fiscal year, we believe that over $50 million will have to be reprogrammed into the taxpayer service program.

We are conducting an administrative review of our remaining resources based on second quarter spending data. We will assess the impact that our hiring freeze and spending constraints on administrative travel, training, ADP procurement, and support are having on our appropriations and programs. After this assessment is completed, the IRS will submit a formal request to reprogram our funds between appropriations.

IRS REVENUE COLLECTION

ACCOUNTS RECEIVABLE

SEN. DECONCINI
AND SEN. DOMENICI: The amount of delinquent taxes reported by IRS has been steadily growing. IRS statistics show that accounts receivable amounted to $59 billion at the end of fiscal year 1988, a 10 percent increase over the prior year. The GAO has pointed to inaccuracies in IRS' accounts receivable figures in its transition report on Internal Revenue Service

issues (GAO report OCG-89-26TR, Nov. 1988) and stated that the IRS had a number of major initiatives under way to develop more accurate figures.

Could IRS please describe these initiatives, their current status, and any results to date?

MR. MURPHY: Many IRS groups have been established to study the Accounts Receivable Dollar Inventory (ARDI). The Collection Multi-Functional Study Group was initiated in May 1986 and was completed April 1987. A Returns Processing and Accounting Task Force operated between July 1986 to October 1987. A quality improvement project team (ARQIP) was established January 1987 and released the final report in October 1988. Internal Audit studied ARDI in March 1987 and released their report in July of 1988. They have a new study which is scheduled for completion in July 1989. The Accounts Receivable Project Group was set up to oversee ARDI in October 1987 and is currently operating. The Executive Study Group was established in December 1987 as a centralized point for ARDI review and is currently operating. The Executive Study Group formed six sub-groups to review major program areas. An Interim Management Information System (MIS) Group was also formed in January, 1989.

Some of the accomplishments have been as follows:

(1) The growth in the average dollar amount of cases was identified.

(2) A management information system was developed to improve management of ARDI issues in the Service.

(3) The Returns Processing and Accounting Task Force identified and corrected numerous system and procedural problems. The Task Force also formed the Accounts Receivable (AR) Project group in accounting. The AR Project group prepares a monthly status report on ARDI for management oversight.

(4) The ARQIP final report contained twelve recommendations for further research or quality improvement teams that have potential for reducing accounts receivable levels or improving management oversight. Implementation of the recommendations are presently in action or decisions are pending. One of the ARQIP recommendations was to engage a Big Eight accounting firm to study ARDI and propose a concept for a total accounting system. A contract was awarded to Price - Waterhouse which made its recommendations in December 1988.

As a result of the ARQIP and the Price Waterhouse study the interim MIS Group was formed to implement a system that will allow the Service to project an allowance for doubtful accounts to be removed from the inventory, improve our tracking ability, and identify the amount realized from the accounts receivable inventory. We will also identify duplicate assessments in the ARDI and information will be made available to include accrued penalties and interest associated with the accounts receivable which is not presently included in ARDI figures.

SEN. DECONCINI
AND SEN. DOMENICI: What is the bottom line? How much of these reported receivables can IRS reasonably expect to collect?

MR. MURPHY: The changes we are currently making to our management information systems will allow us to estimate the truly collectible portion of the accounts receivable inventory.

The $59 billion refers to the accounts receivable as of the end of the fiscal year 1988. The figure is an accurate reflection of the receivables. However, the accounting system does not mirror the accounting systems of large businesses and other government agencies because the IRS is not in the position of withholding credit.

The Service does not currently estimate the amount realized portion

of the accounts receivable inventory. This is one of the goals of the Interim Management Information System Group as well as a Price Waterhouse recommendation. The group is working on determining the amount of the ARDI that will eventually be realized. This estimate of the 1990 realizable portion of ARDI will be available in December 1989. The actual amount realized will be available in December 1990.

SEN. DECONCINI AND SEN. DOMENICI: What are the problems with the accounts receivable figures? Have those problems existed for a long time or are they recent problems. If they have existed for a long time, why has it taken so long to deal with them?

MR. MURPHY: Unlike private businesses, the Service keeps a receivable on the books for the entire period during which we can legally collect the tax. Many of the accounts have been reasonably determined to have little current collection potential and are not being actively worked. We are now trying to estimate the portion of the accounts receivable inventory that is truly collectible.

The accounts receivable figure is composed of various delinquency categories, including current accounts receivable and accounts that are (1) in notice status, (2) being actively worked, (3) classified as currently not collectible, (4) being paid through installment agreements, and (5) not being actively worked because of dollar tolerance levels and other reasons. The accounts receivable total figure is a picture of what is recorded as due at a point in time. The fact that a portion of that total will be abated and thus preclude collection can not be captured in such a picture.

Historically the Service functions based their program effectiveness on operational results, such as dollars assessed or dollars collected, not on the accounts receivable accounting system. Service programs that seek

to identify those who have not filed or to establish the correct tax liability of those who have filed actually increase the Accounts Receivable. Those tax liabilities that are put on the books represent taxpayers who have attempted to drop out of the system. Putting them back on the tax rolls increases our opportunity to collect delinquent tax revenue and to prevent future delinquencies.

Because of the high visibility of the Accounts Receivable Dollar Inventory (ARDI), the Service in FY 1985 initiated efforts that resulted in the identification and correction of numerous system and operational problems. After the Service's review, the current accounting system will be revised to more closely parallel large business accounting systems. For example, the Service is developing a system to estimate an allowance for doubtful accounts on its accounts receivable and will be able to determine the actual amount realized. This information will be available for the end of the fiscal year 1989 data.

SEN. DECONCINI AND SEN. DOMENICI: If IRS is unsure about the real value of its accounts receivable or the amount it can reasonably expect to collect, how can it justify requesting more resources in this area?

MR. MURPHY: Collection's requests for additional resources for the Accounts Receivable program have been justified by increases in dollars collected and assessed rather than impact on overall accounts receivable. While we have not made a judgment on the collectibility of all of the accounts, we do know that the inventory of Taxpayer Delinquent Accounts (TDAs) assigned to Collection has grown to almost 3 million accounts representing $17.5 billion at the end of FY 1988. It is these accounts that are most sensitive to increases in resources and that represent the greatest opportunity for additional collections.

In FY 88, $23.3 billion was collected, while the accounts receivable total stood at $59.0 billion at the end of FY 88. The Service estimates that it will collect $24.8 billion in FY 89 and that the accounts receivable total will reach $62.4 billion by the end of FY 89.

The accounts receivable balance has continued to grow due to many factors. Some of these are: (1) the growth in the number of returns filed, (2) the increase in the average amount of each delinquent account, (3) new compliance and enforcement measures which identify more taxes owed, (4) the improved identification of nonfilers, (5) assessments of civil penalties and the penalty rate increases, and (6) changes in the 100% penalty system.

DELINQUENT RETURNS

SEN. DECONCINI AND SEN. DOMENICI: We understand that in its budget submission to Treasury, IRS proposed a large delinquent returns initiative -- 2,193 full-time equivalent (FTE) positions and $110.1 million. As a result of this initiative, IRS expected to close about 140,000 cases in the first year and to generate $272 million in additional tax receipts in fiscal year 1990. We understand that Treasury dropped this initiative from the IRS budget.

The size of the proposed initiative would indicate that IRS has a significant compliance problem in the area of delinquent returns. Could IRS please describe that problem and how the initiative would have addressed it?

MR. MURPHY: The proposed initiative was focused on business taxpayer compliance concerns primarily. The Employment Tax Examination program was to be expanded to increase coverage of employers in all districts. This relatively new program for Revenue Officer Examiners checks the classification of workers as independent contractors instead of

employees. Additionally, increased emphasis was to be placed on employment tax delinquent return cases. This emphasis would help in the prevention of delinquent withheld employment tax accounts through priority contact with the taxpayer before several periods of employment tax were delinquent. The additional resources from the initiative would have allowed priority treatment of more delinquent return cases.

SEN. DECONCINI AND SEN. DOMENICI: Why did Treasury not approve the delinquent returns initiative?

MR. MURPHY: Treasury's consideration of these proposals was guided by Department-wide budget guidelines assigned by OMB, a need for reasonableness in assumptions of revenue productivity, and the balancing of IRS resources between service and compliance.

During the time of Treasury's deliberations, there were also emerging concerns regarding the IRS annual capacity to absorb and train more enforcement staff. Treasury and IRS wished to review these observations.

ALLOCATION OF RESOURCES

SEN. DECONCINI AND SEN. DOMENICI: IRS Collection activities are broken down into three stages: Service Center Collections, the Automated Collection System, and The Field Office Function. The three stages consist of three different, consecutively stronger Collection approaches with correspondingly higher costs at each stage. The first stage basically involves correspondence with the taxpayer. The second stage involves telephone contact with the taxpayer and possible levy of the taxpayer's liquid assets in the possession of third parties. The final stage involves personal contact with the taxpayer and possible seizure of tangible property.

IRS' budget for fiscal year 1990 calls for 20,804 average positions in

the Collection function. How does IRS plan to allocate those positions to the three collection stages? What is the basis for this allocation?

MR. MURPHY: Collection plans to allocate its field office positions to ensure the maximum revenue, increase compliance and minimize costs. To achieve these goals, we first fully fund our Service Center Collection Branch (SCCB) to ensure that maximum effort will be applied to resolving cases through correspondence alone. We expect that approximately 3,400 staff years will be allocated to the ten SCCBs in FY 1990. The next allocation is to the Automated Collection System (ACS) call sites which will receive approximately 2,700 staff years. The remaining staff will be allocated to district Collection Field Functions based on anticipated workloads.

SEN. DECONCINI AND SEN. DOMENICI: What return has IRS experienced per dollar spent for each of the three collection stages? How is this figure factored into the allocation process?

MR. MURPHY: We estimate that, for every dollar spent, we collected sixty dollars in the Service Center Collection Branch; seventeen dollars in ACS and eight dollars in the Collection Field Function. As a case works its way through the collection process, it becomes more expensive to close. Therefore, we allocate our resources to ensure that maximum effort is placed on cases in the earliest stages.

SEN. DECONCINI AND SEN. DOMENICI: If IRS were to receive additional appropriations for collection activities, how would it allocate these additional resources and what additional revenues could be expected? Please provide an answer based on incremental increases of $25 million up to a total increase of $100 million.

MR. MURPHY: Because our resource allocation strategy fully funds the Service

Center Collection Branch and ACS, additional staff resources are primarily directed to the Collection Field function which is not fully staffed. We would determine which programs to expand based on the balance of our budget request. There is, for example, an initiative to increase the Accounts Receivable program resources already included in this budget. Assuming that the initiative is passed, the first $50 million of additional appropriations would be directed to the Collection Field Function to expand the Delinquent Returns program. The next two levels would be directed to further expansion of the Accounts Receivable program, also in the Field Function. We would return about four dollars for each dollar spent at the first two increments. The third increment would return about three dollars per dollar spent and the last increment would return about two dollars. However, it would be difficult to absorb a $100 million increase at this time. Because experienced staff are used as instructors and coaches of new employees, there is a limit to the number of employees we can hire in one year without causing serious disruption to current operations. We estimate that the maximum increase we could absorb in the Collection function, in addition to the initiative contained in the president's budget, would be at the $75 million level.

AUTOMATED COLLECTION SYSTEM

SEN. DECONCINI
AND SEN. DOMENICI: The Automated Collection System (ACS) is considered by IRS to be a major improvement in collecting delinquent taxes. At last year's appropriations hearings, IRS estimated that ACS reduced the cost of closing a delinquent account from $49 in fiscal year 1983 to $23 in fiscal year 1985.

What is the current cost of closing a delinquent account in the Automated Collection System (ACS) and how much does IRS collect per case closed?

MR. MURPHY: The current cost of closing a delinquent account in ACS is $49. The average amount collected per case closed is $1,096. We attribute the rise in the cost per case closed since 1985 primarily to increased staff costs. This increase is due both to increases in salaries and benefits, and, to high turnover rates in some ACS sites.

SEN. DECONCINI AND SEN. DOMENICI: Does ACS have sufficient computer and personnel resources to adequately handle all of the delinquent accounts in inventory? If not, what additional resources, both computer and personnel, are needed to cost effectively handle delinquent accounts and fully realize ACS' potential?

MR. MURPHY: While ACS has been successful in collecting delinquent taxes, Collection has undertaken a comprehensive review of ACS to determine what changes are necessary to improve case processing and reduce inventories. We are also approaching the end of the system's life and are reviewing what changes in system software and capacity may be necessary. Despite rising inventories and serious attrition rates at some call sites, ACS was able to bring in some $2.7 billion in FY 1988. We do know that attrition is a serious problem in many sites due to our inability to pay competitive salaries. To help alleviate attrition problems, we are testing the concept of establishing remote processing sites that would be linked to established sites. The remote sites would not need new mainframe computers, one of the most costly components of an ACS call site. If the concept is successful, we anticipate establishing remote sites in areas with employment markets favorable to our needs. Other changes, to computer capacity or personnel, will be determined by the executive level review group. Until that group makes its recommendations we cannot estimate what additional resources would be needed.

EMPLOYER DELINQUENCIES

SEN. DECONCINI
AND SEN. DOMENICI: Instances in which employers fail to pay taxes withheld from employees' wages pose special problems for the IRS. Unlike most other taxes, these are not the businesses' taxes. Rather, they are the employees' taxes that have been withheld by the business for the government. GAO reported in November 1988 (GAO Report OCG-89-26TR) that in some situations employers could accumulate a significant amount of delinquent taxes before IRS begins taking intense collection action. When such situations arise, IRS is sometimes faced with seizing the business' assets to collect the delinquency and halt future delinquencies. This action can have socioeconomic repercussions by forcing the business to file for bankruptcy, thus causing unemployment.

What portion of the total delinquent taxes are made up of withheld employment taxes?

MR. MURPHY: Unpaid employment tax accounts totaled $4.2 billion at the end of December, 1988. This represents 23% of the accounts in active inventory.

SEN. DECONCINI
AND SEN. DOMENICI: What special programs and procedures does IRS use to collect delinquent withheld employment taxes? Does IRS have any plans to change these procedures or add new ones? If so, please provide details.

MR. MURPHY: Collection employs a Resources and Workload Management System (RWMS) which assigns a priority weight to cases in inventory based on anticipated yield. Currently, there are plans to revise RWMS case scoring to increase the priority of cases where business have not filed their employment tax returns. Our goal is to contact these businesses before their unpaid liability gets too large and the taxpayer is out of business. We believe that early contact with

business taxpayers will enable us to bring the taxpayer into compliance while the business is still operating.

Within the current system, delinquent employment tax cases are assigned a higher priority to assure that these cases are mpre likely to be assigned to a revenue officer's inventory. Traditionally, collection of these trust fund delinquencies has been our highest priority. In all contacts with business taxpayers, Collection employees are required to verify that employers are depositing withheld taxes as required by law. Revenue officers must bring a taxpayer into compliance with deposit requirements as part of their case assignment. Employers who consistently fail to file and deposit taxes can be subject to more stringent filing and depositing requirements under IRC 7512(b), including establishing a special account for withheld taxes and depositing withheld taxes within two days. Failure to comply with these requirements can lead to criminal prosecution.

Legislation allows for the assessment of the withheld portion of unpaid taxes incurred by a corporation to be assessed against the responsible officers of the corporation if the corporation can not pay the delinquencies. These 100% penalty assessments are then collected from the individual assets of the officers.

LEVIES AND SEIZURES

SEN. DECONCINI
AND SEN. DOMENICI: IRS has awesome powers at its disposal to collect delinquent taxes, specifically the power to levy and seize taxpayer assets. IRS defines a levy as the seizure of liquid assets in the possession of third parties such as banks and employers and defines a seizure as the taking of physical assets such as automobiles and business equipment. During

fiscal year 1988, IRS issued 2.2 million levies and engaged in 14,000 seizures. IRS has been unable in the past to provide information on the extent to which it has levied or seized assets improperly. Numerous instances of abusive use of these powers have been highlighted at past congressional hearings, and the Congress recently passed the Taxpayer Bill of Rights as part of the Technical and Miscellaneous Revenue Act of 1988 as a means to eliminate such abuses.

Can IRS tell us how often levies and seizures have been used improperly? If yes, what percent of the levies and seizures in 1988 were improper? If no, what efforts are under way to develop this kind of information?

MR. MURPHY: While we do not track the number of improper levies and seizures made by IRS employees, we know that the number of complaints is small compared to the number of levies and seizures undertaken throughout the country. With the implementation of the Taxpayer Bill of Rights, the Taxpayer Ombudsman's office will gather data about Taxpayer Assistance Orders, which should help us analyze the factors which led to an improper levy or seizure.

SEN. DECONCINI AND SEN. DOMENICI: What controls does IRS have in place to avoid improper levies and seizures? What effect will the Taxpayer Bill of Rights have on eliminating inappropriate use of levies and seizures, and what will the changes required by the bill cost in terms of resources?

MR. MURPHY: The Taxpayer Bill of Rights codified many of the internal procedures we had in place to prevent improper levies and seizures. All seizures require management approval and seizures of personal residences must be approved by the District Director, personally. Notices of Levy in special situations, such as a levy on benefit income, require the approval of management. An important element of management reviews is that

enforcement actions are appropriate. The introduction of Taxpayer Assistance Orders will further safeguard taxpayers' rights by creating a forum for those taxpayers who believe they have been improperly levied upon or who have had their property improperly seized. We have undertaken training to ensure that all employees understand these new provisions and to re-emphasize the taxpayer's rights in all collection contacts. We are also providing additional training to all Collection managers on Policy Statement P-1-20 which prohibits managers from using enforcement statistics in evaluating employees. In accordance with the Taxpayer Bill of Rights, District Directors will be required to certify compliance with P-1-20

Every district also has a liaison with the banking community who can handle questions from financial institutions concerning ownership of bank accounts. Also the 21 day freeze on bank accounts before the funds are turned over to the IRS, as required by the Taxpayer Bill of Rights, provides sufficient time for taxpayers to notify us if they believe we have made an error.

We have not yet completed our estimates of the cost of implementing the Taxpayer Bill of Rights, but, we believe the costs will be primarily for training employees in the new provisions and should not be significant.

COMBINED ANNUAL WAGE REPORTING

IRS' BUDGET INCLUDES TWO PROGRAM CHANGES TOTALING 417 FTE POSITIONS AND ABOUT $14.2 MILLION TO RESOLVE DISCREPANCIES BETWEEN INFORMATION REPORTED TO IRS ON EMPLOYMENT TAX RETURNS AND INFORMATION REPORTED TO THE SOCIAL SECURITY ADMINISTRATION. WITH THESE RESOURCES, YOU INDICATE THAT IRS CAN WORK 332,000 ADDITIONAL REVENUE-PRODUCING CASES WITH EXPECTED COLLECTIONS OF ABOUT $70 MILLION AND RECONCILE ABOUT 175,000 OTHER CASES THAT CANNOT BE RESOLVED BY THE SOCIAL SECURITY ADMINISTRATION.

Senator DeConcini:
Senator Domenici: How does the number of cases IRS expects to work and resolve with these additional resources compare to the total combined annual wage reporting workload facing IRS?

Mr. Murphy: IRS expects to approximately double the volume of revenue-type cases that we work, starting with the Tax Year 1987 cases that we begin working in April, 1989. This will result in our working the entire inventory of these revenue-type cases. During FY 1990, we will continue working the entire caseload of revenue-type cases. In addition, in FY 1990 we will also work the roughly 175,000 non-revenue type cases that we will be receiving from SSA as a result of the IRS/SSA Memorandum of Understanding (MOU).

Senator DeConcini:
Senator Domenici: We understand that the IRS has decided to reprogram funds in Fiscal Year 1989 to enable it to reconcile wage reports this year. How will the reconciliation effort in Fiscal Year 1989 affect IRS' plans for Fiscal Year 1990 as spelled out in the budget?

Mr. Murphy: The Service provided funding for the increase in workload through reprogramming of funds for FY 1989. This reprogramming of funds was for one year only. We will need the resources requested in the FY 1990 budget in order to work the reconciliation effort for FY 1990.

Senator DeConcini:
Senator Domenici: What is the IRS doing to address the root causes of Combined Annual Wage Reporting discrepancies? What is the IRS doing to identify employees who repeatedly file discrepant reports? What is IRS doing in conjunction with the Social Security Administration to identify information needed by both agencies to ensure proper amounts are being received and credited to the appropriate employer and employee accounts? For example, when employers report amended employment tax payments, what information on the amended

filing is shared with the Social Security Administration? Is the amended information sufficient to identify the amounts that should be credited to employees' accounts for the proper period?

Mr. Murphy: IRS has undertaken numerous steps to address the root causes of CAWR discrepancies. Several of these steps are called for in the IRS/SSA MOU. IRS has given a high priority to implementing provisions of this agreement.

Several modifications are being made to the pertinent tax forms and instructions. On Form W-3, we are adding a box for employers to list any other Employer Identification Number (EIN) that was used. Also, boxes are being added to this form requiring employers to list FICA wages and FICA tax reported to IRS. These changes should help employers report accurately as well as help IRS and SSA match the employer wage reports to the employers tax return. IRS and SSA are holding jointly sponsored seminars for the purpose of educating new and small employers as to the proper methods of filing and reporting this information. These classes of employers represent a large portion of our CAWR cases. We will also allow an expanded time frame for updating our files with information provided by SSA. For example, late filed and amended wage documents will update the CAWR case and possibly void any previously identified discrepancy.

Beginning with Tax Year 1987 CAWR cases, which we will start working in FY 1989, an indicator will appear on the case file (CDC) indicating if the employer has been in the CAWR program before. This will alert the tax examiners working the cases that the employer is a repeater and will be helpful with the penalty assessment part of the program.

We are working with SSA to refine our data exchange so that SSA has the information they need to credit proper amounts to employee accounts. The question of amended employment tax returns has proved to be troublesome. Employers who amend Forms 941, either on an amended Form 941c or as a line item adjustment on a later Form 941, generally should file amended Forms W-2/W-3 with SSA. When employers file these amendments properly, all information is present for SSA to correctly credit employees' accounts. However, in addition to the number of incorrect employer amendments, IRS and SSA have numerous problems with the prompt interagency transfer of the amended data and currently the data exchange is not sufficient for SSA's purposes. Our two agencies have held numerous meetings in an attempt to reconcile the different methodologies used by each agency to record employer amendments. We are confident that we will shortly be able to resolve this problem.

CRIMINAL INVESTIGATIONS

THE FISCAL YEAR 1990 REQUEST PROVIDES NO RESOURCES TO ENABLE THE IRS TO IMPLEMENT THE ANTI-DRUG ABUSE ACT OF 1988. AT THE SAME TIME, THE BUDGET INCLUDES A TRANSFER OF 260 FTE POSITIONS AND ABOUT $14.4 MILLION TO THE DEPARTMENT FOR THE ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE.

Senator DeConcini and
Senator Domenici:

HOW WAS THE AMOUNT AND NUMBER OF POSITIONS TO BE TRANSFERRED DETERMINED?

Mr. Murphy: The amount and positions that you refer to are part of the resources that we have contributed to the OCDETF effort in recent years as scored in the administration's government wide estimate of drug spending. This amount has remained constant since FY 85. The Anti-Drug Abuse Act of 1988 requires all federal law enforcement agencies

participating in OCDETF to transfer their base resources to a new OCDETF appropriation. OCDETF activities will then be funded on a reimbursable basis to each participating agency.

Senator DeConcini and
Senator Domenici:

IS THE IRS LOSING EXPERIENCED SPECIAL AGENTS AS A RESULT OF THIS TRANSFER?

Mr. Murphy: No, as it is understood that these funds will be available to the IRS for their special agents.

Senator DeConcini and
Senator Domenici:

WILL OTHER CRIMINAL INVESTIGATION PROGRAMS HAVE TO BE ALTERED, REFOCUSED, OR DIMINISHED AS A RESULT OF THIS TRANSFER? IF SO, PLEASE GIVE SPECIFICS.

Mr. Murphy: There will be no change to Criminal Investigation's activities since it is anticipated that these funds will be available on a reimbursable basis.

Senator DeConcini and
Senator Domenici:

HOW WILL THE ANTI-DRUG ABUSE ACT OF 1988 AFFECT IRS'S CRIMINAL INVESTIGATIONS WORKLOAD IN FISCAL YEAR 1990? ASSUMING IRS' WORKLOAD WILL INCREASE AS A RESULT OF THE ACT, HOW DOES IRS EXPECT TO HANDLE THIS INCREASE WITH THE RESOURCES AVAILABLE TO IT?

Mr. Murphy: IRS and Treasury are finalizing an estimate of workload and costs associated with the Anti-Drug Abuse Act of 1988. It will shortly be sent to OMB for review.

IRS: ELECTRONIC FILING SYSTEMS

Sen. DeConcini:
Sen. Domenici: What are the current dollar savings to the Service? What is the underlying rationale for these benefits?

Mr. Murphy: The total potential savings to the Service, over the system's life (12

years) is just over $84 million. This figure is based on the projected input processing cost savings and document storage savings. It is based on Research Division's most recent projected volumes of returns to be filed electronically.

There are no net dollar savings during the early systems life since much of our spending consists of one-time upfront costs (i.e. equipment purchases).

Sen. DeConcini:
Sen. Domenici: You are requesting about $16.5 million for fiscal year 1990. You estimate that during 1990, about 4.4 million electronic returns will be processed at three service centers. Of the requested $16.5 million, how much will be used for further development of the electronic filing system? How much will be used to install and operate the system at each service center; identify each service center and supply details on each.

Mr. Murphy: Of the $16.5 million requested in 1990, approximately $4.9 million comprise ADP Equipment and Support costs. Enhancements to the current Electronic Filing System constitute approximately 50% of this $16.5 million, or $8.3 million. This will include a faster refund, phasing in the greater portion of Employee Plans Master File returns, the addition of imaging devices for Forms W-2 and signature documents, processing of Forms 940/941.

The Electronic Filing Systems will be operational Nationwide from three Service Centers (Cincinnati, Ogden and Andover Service Centers) for the acceptance and processing of electronic returns, both individual and other than individual (Business Master File and Employee Plans Master File). The balance of the money will be spent on the installation of a Graphic Sub-System and Return Storage Facility in the remaining

centers. In addition, a Test System will be installed at the National Office during Fiscal Year 1990.

Operational costs are based on the current equipment cost plus appropriate inflation and are estimated to be $210 thousand per service center. In addition, vendor support and services for these systems will be required through 1991.

Sen. DeConcini:
Sen. Domenici: During last year's budget hearings, you stated that refunds (in the 1987 filing season) for electronically filed returns were issued, on average, in about three weeks, while refunds for paper returns were issued in about six to ten weeks. We are aware that a new system was installed for the 1988 filing season. How has the new system affected the refund time and what is Internal Revenue Service doing to further reduce the time for issuing refunds on electronic returns? Do you have any preliminary statistics for refund times from the 1989 filing season?

Mr. Murphy: During the 1987 filing season, refunds for returns filed electronically were received in an average of nineteen days, and from three to eight weeks sooner than paper returns. This refund time has been consistent with filing season 1989.

For 1990, as well as accepting balance due returns on a test basis, we hope to further shorten the refund time from receipt of acknowledgment.

Sen. DeConcini:
Sen. Domenici: During last year's budget hearings, you stated that savings estimates for electronic filing were based on a goal of processing 387 million returns over the 10 year life of the system. In addition, as a part of Tax System Modernization, we understand that Internal Revenue Service plans to replace its

service center mainframe computers. We understand that recent IRS projections are substantially below 387 million returns. What are the current projections, and why were they reduced? What effect will the lower projections have on the cost effectiveness of the system? How do you know that your predictions of taxpayer behavior are realistic?

Mr. Murphy: Current Research Division projections have reduced return volume to 252 million individual refund returns over the life of the system. This figure does not consider the addition of balance-due returns, as well as 101 million Business Master Files and one million Employee Plans Master Files returns.

The cost benefit analysis is based on the filing of individual refund returns. At this juncture savings are based on the cost of processing a paper return to good tape at approximately $.725 per return (including overhead), and savings in space and storage costs ($.0423 per return) of electronically filed returns. Those savings associated with labor in non-pipeline functions (adjustments, notice review, compliance) and costs associated with administration and retrieval of returns files records have not yet been determined. An analysis of these savings bases is planned.

Sen. DeConcini:
Sen. Domenici: Will the replacement of service center mainframes require a redesign of the electronic filing system? If so, describe the extent of the redesign required. When will the redesign occur? What effect will this have on the projected life of the electronic filing system and its cost effectiveness?

Mr. Murphy: The replacement of service center mainframes will have little, if any impact on the electronic filing systems. The processing programs, which are run on the service

center's mainframes, are written in COBOL, which would be compatible on other mainframes with minor changes. Thus the replacement of the mainframes would not effect the projected life of EFS or its cost effectiveness.

Sen. DeConcini:
Sen. Domenici: In light of the recent projected number of returns, what is Internal Revenue Service doing to insure that its system design has adequate, but not excessive, capacity?

Mr. Murphy: There are ongoing capacity studies concerning the Electronic Filing System, as an overall system, and broken down to its sub-systems.

Sen. DeConcini:
Sen. Domenici: What is Internal Revenue doing to encourage additional taxpayer participation in the program? How much increase do you think these actions will produce?

Mr. Murphy: By shortening the refund time for returns filed electronically, accepting balance-due returns and providing ease of availability of our product to our taxpaying customers, we believe we can encourage taxpayers to file returns electronically. In addition, we have had significant interest on the part of State-tax administrators for the implementation of an Electronic Filing System for state income tax programs. Several software vendors and tax return preparers have told us that the ability to file both state and federal returns electronically will generate more interest in this program. These, together with the benefit of the shorter refund time, should encourage widespread use of the Electronic Filing System.

Sen. DeConcini:
Sen. Domenici: During last year's budget hearings, you stated that integration of electronic filing with other initiatives is a complex task needed to complete full

implementation. What type of integration must be achieved, and what is Internal Revenue Service doing to ensure the compatibility of the system with other automated input processing initiatives and to minimize unnecessary duplication among these systems?

Mr. Murphy: Electronic Filing will ultimately be integrated with the Service Center Support System and the Document Processing System. This integration will be ongoing as systems are implemented.

EXAMINATION

On of the reasons Congress has authorized additional examination staff for IRS in the past has been to reverse the decline in the percent of filed tax returns that are actually audited (called audit coverage). Even with additional audit staff, however, the level of audit coverage has continued to fall rather than rise. For example, IRS is estimating that audit coverage in fiscal year 1990 will be 1.23 percent, which is almost 10 percent lower than the 1.34 percent figure IRS reported achieving in fiscal year 1985--even though IRS expects to have 3,000 more revenue agent positions in 1990 than it did in 1985.

Sen. DeConcini& Sen. Domenici: We continue to hear about the decline in audit coverage despite an increase in IRS staff. What has been the audit coverage in each of the past ten fiscal years?

Mr. Murphy: In response to your question, I would like to insert the following coverage for the past ten years:

FISCAL YEAR	EXAMINATION COVERAGE RATE
1980	2.12%
1981	1.84%
1982	1.63%
1983	1.56%
1984	1.31%
1985	1.34%
1986	1.12%
1987	1.10%

1988	1.02%
1989 *	1.10%
1990 *	1.23%

*=Estimates

Additionally, I would like to add that over the same period tax return filings on which we compute coverage have increased 21.6 percent from 97 million in 1980 to an estimate of 118 million in 1990.

Sen. DeConcini& Sen. Domenici: I understand that such things as increasing complexity and a greater emphasis on quality have contributed to this decline in audit coverage. Without denying that those may be legitimate reasons, to what extent might the following also be contributing factors:

a). Experienced revenue agents are spending so much time training and coaching the large number of newly-hired agents that they are unable to audit returns.

Mr. Murphy: Experienced revenue agents act as both classroom instructors and "on-the-job" coaches to new revenue agent recruits. This training schedule requires a significant amount of time in which these revenue agents are taken off their regular examination workload. We estimate that a revenue agent trainer will expend approximately 750 hours per trainee for all phases of recruit training. This training will occur over a two to three year period.

Sen. DeConcini& Sen. Domenici: The agents being hired today are not as competent as those hired in past years.

Mr. Murphy: It is difficult to compare the competency of newly hired agents with those hired in past years. There is no common comparison means to do so. In 1984 through 1987, we administered two AICPA

accounting tests to our new hires, and found when compared to various norm groups, our hires did not do well.

We have undertaken several actions, however, to ensure a quality workforce. In September 1987, we began using direct hire authority in recruitment of revenue agents. This authority streamlines the normal Federal hiring system, thus allowing us to be more competitive with private accounting firms. Many of our offices have already reported getting better recruits through use of this authority.

A key to being competitive in the marketplace for well-qualified accounting candidates is having comparable salary rates. We currently have a request at the Office of Personnel Management proposing higher starting salaries for approximately 15 geographical areas throughout the country.

Other actions include a strategic initiative for implementing new automated recruitment systems i.e., a nationwide applicant referral system, monitoring system to track the success rate of new hires, information sharing systems, etc., that will provide for a well coordinated recruitment program.

As long as we can be progressive in our recruitment and hiring program, we expect to maintain our fair share of the market for top quality candidates.

IRS' budget includes a request for $12 million so that the service centers can audit 188,000 additional taxpayers through correspondence. IRS estimates that those audits will generate an estimated $101 million in additional taxes, penalties, and interest in FY 1990--an average of $537 per taxpayer.

Sen. DeConcini& Sen. Domenici: How does the return on these service center audits compare with the return on the more typical district office audits?

Mr. Murphy: Service center taxpayer contacts are highly cost beneficial when comparing the cost of each return to the cost of the contact. When comparing benefit cost ratios, using recommended tax and penalties to cost, this increment has an average benefit cost ratio of approximately 12 to 1 ($141.7 million/$12 million). The same comparison for a tax auditor examining individual tax returns in a district office is only 5 to 1. Using this analysis, it would appear that we should change our audit emphasis. However, with this proposed initiative, we will complete most of the yield-beneficial taxpayer contacts that are possible for us to achieve.

Sen. DeConcini& Sen. Domenici: Is an increase in service center audits a more cost effective way to increase audit coverage?

Mr. Murphy: The service center initiative that we propose in FY 1990 has no impact on Examination coverage rates at all. The initiative does not increase the number of examinations that we complete, but will result in additional taxpayer "contacts" being made in our service center examination operations which are not included in coverage calculations. However, in our FY 1990 budget submission, we add together service center contacts and examinations to compute the Examination "presence" percentage. As a result of this initiative, the Examination presence rate, will increase from 1.72 percent in FY 1989 to 1.98 percent in FY 1990.

Sen. DeConcini& Sen. Domenici: What kinds of issues will IRS be pursuing through these correspondence audits?

Mr. Murphy: The Examination corrections program consists primarily of pre-identified returns where the Service has information that a deduction claimed on a tax return is invalid or a special tax has not been paid. For example, the return may clearly indicate that a taxpayer is self-employed, but the self-employment tax has not been paid with the tax return. We correspond with the taxpayer to correct that oversight. A relatively short time frame is needed to resolve these issues and assess the tax. This differs from district examination where more complex returns are audited requiring a significant amount of time to close and ultimately assess additional tax. I will insert, for the record, examples of Examination service center contact programs.

EXAMPLES OF EXAMINATION SERVICE CENTER CONTACT PROGRAMS

1. Multi-Filers
2. Self-Employment Tax
3. Married Filing Separately
4. Child Support Refund Offset
5. Child Care Credit
6. Investment Tax Credit
7. Employee Business Expense
8. Local Contact Programs

As I indicated before, this type of service center contact does not constitute an examination and thereby does not affect the audit coverage percentage. However, in our FY 1990 budget submission, we add together service center contacts and examinations to compute the Examination "presence" percentage. As a result of this initiative, the Examination presence initiative will increase from 1.72 percent in FY 1989 to 1.98 percent in FY 1990.

INSPECTION ACTIVITIES

In an October 1989 report entitled "Managing IRS: Actions Needed to Assure Quality Service in the Future" (GGD-89-1), GAO said that IRS' Internal Audit Division has experienced a 13 percent decrease in staff years between 1980 and 1988 while IRS' total staff years had increased by almost 26 percent. GAO indicated that this situation had limited Internal Audit's ability to provide sufficient audit coverage, and recommended that sufficient funds be provided to facilitate broader coverage. IRS' fiscal year 1990 request includes no additional funding to expand its Internal Audit capabilities.

Senator DeConcini and Senator Domenici: Does the absence of requested increase in funding for Internal Audit staff in fiscal year 1990 mean that IRS believes its current staffing levels are adequate?

Mr. Murphy: We believe Internal Audit's staffing levels could be higner. A study of Internal Audit was conducted in FY 1988 and recommended that Internal Audit's staffing level be increased by 242 staff years over a three year period beginning in FY 1989. The GAO report supports this position.

Senator DeConcini and Senator Domenici: If current levels are not adequate, has IRS determined how many additional staff years it needs? Why weren't these additional staff years requested for fiscal year 1990?

Mr. Murphy: IRS made an internal adjustment to provide 62 additional staff years to Internal Audit in FY 1989. The IRS budget proposal for FY 1990 included 77 staff years for Internal Audit. Because this request was disallowed, the Service is considering an internal adjustment to provide additional staff years to Internal Audit.

IRS' fiscal year 1990 request includes 34 FTE positions and about $4 million to enable the Internal Security Division to do more integrity investigations.

Senator DeConcini and Senator Domenici: How does the IRS intend to use the additional resources requested in fiscal year 1990 for the Internal Security Division?

a. Will the recent establishment of an independent Inspector General in the Department of Treasury affect the responsibilities of this Division?

b. Will these resources be used solely for IRS investigations?

c. To what extent, if any, will the Treasury Inspector General be involved in IRS' integrity effort?

Mr. Murphy: IRS will use the 34 FTE to hire additional criminal investigators in the Internal Security Division. These additional investigators will enable IRS to more timely and vigorously pursue allegations of misconduct. We will increase integrity probes, awareness presentations, and liaison activities which will dramatically increase Internal Security presence and serve as a deterrent to anyone contemplating criminal misconduct against the Service.

a. Internal Security will continue to be responsible for conducting investigations related to the integrity of the Internal Revenue Service. We, therefore, do not anticipate that the additional FTE will be impacted by the Inspector General legislation.

b. The additional Internal Security resources will be used solely for IRS' investigations and integrity efforts.

c. The Inspector General at the Treasury Department has always had oversight responsibility for IRS' integrity efforts. We expect this oversight to continue.

Senator DeConcini
and Senator Domenici: The justification materials indicate that there has been a 50 percent increase in alleged drug use and computer crime by IRS employees in the past two years. What had been done to address this potential problem? If you've known this long that a potential problem existed, why haven't additional resources been requested before this?

Mr. Murphy: Internal Security investigates all allegations of drug use and computer crime by IRS employees. The Service was aware that these kinds of problems existed and diverted resources from the integrity program in order to respond to the immediate critical needs in these areas. The majority of the 50 percent increase experienced during the last two years occurred in the most recent year. The fiscal year 1990 request includes resources to support additional investigators to strengthen the integrity program and agressively and timely investigate all allegations of illegal activities by IRS employees.

IRS: INTERNATIONAL COMPLIANCE

SEN. DECONCINI &
SEN. DOMENICI: What information does IRS have as to the nature and extent of noncompliance in the international area?

MR. MURPHY: In 1985-86, the General Accounting Office (GAO) conducted an 11-month study of underreporting of income and non-filing of individual tax returns among Americans resident abroad. The study group was able to obtain social security numbers (SSN) of 3,905 individuals residing abroad from an unidentified source. Matching this data against the past three years of individual master file data revealed a non-filing rate of 61 percent. However, it was noted in the study that they did not check for the

spouse's SSN when checking the master file. This, of course, would inflate the non-filing rate substantially.

In 1988, the IRS began receiving quarterly tapes from the State Department with the names, addresses, dates-of-birth, and social security numbers of all U.S. passport applicants, as mandated by section 6039E of the Tax Reform Act of 1986. As of March 1st, approximately 73,000 of these applications have been received from overseas embassies and consulates. The IRS is currently in the process of perfecting the data (i.e., making sure that the SSN matches the name). When this is complete, the SSNs of those between the ages of 22 and 65 will be matched against the master file to determine whether they have filed a tax return. This will give the IRS a good indication of compliance among Americans resident abroad, and also allow the IRS to send information to those who are not currently filing in an effort to improve compliance.

IRS: INTERNATIONAL REORGANIZATION

SEN. DECONCINI & SEN. DOMENICI: IRS recently reorganized its international activities under a separate Assistant Commissioner. How have IRS' efforts in the international area changed since that reorganization? Have revenues from international compliance efforts increased since the reorganization? What problems, if any, have been encountered?

MR. MURPHY: The Service's purpose in establishing the Assistant Commissioner (International) was to focus our international activities to deal with the emerging global economy. Since the 1986 reorganization, a number of new initiatives have been undertaken. These include:

The overseas Taxpayer Service program has been significantly increased. Assistors will visit 145 cities in FY 1989, nearly double the number in FY 1986. We will also conduct about

95 VITA classes, a tenfold increase over FY 1986. In addition, we have implemented a number of program changes to improve the quality and accuracy of service delivered to overseas taxpayers.

We now know significantly more about the overseas U.S. citizen population. Using a variety of sources, we now have estimates of the number of U.S. citizens residing abroad by country, and a recently completed survey of taxpayers who visit our foreign offices for assistance has given us additional preliminary demographic data on the overseas population.

We have undertaken a number of initiatives in our compliance functions to improve the quality and effectiveness of these programs. We have recently completed a study to improve our system for handling of delinquency cases. In addition, we plan to implement the Automated Collection System for International cases by the end of this year. In Examination, we have been working to identify taxpayers who are incorrectly claiming the Foreign Earned Income Exclusion and are now conducting a review of federal agencies' compliance with employment tax requirements abroad. Our Criminal Investigation function is actively involved in a wide variety of cases and has had significant success in addressing money laundering problems in the Caribbean.

Revenue from International compliance programs has increased significantly since the reorganization. As previously indicated in our Congressional Budget submissions for FY 1989 and FY 1990, we estimate total revenue from Collection activities in FY 1990 will be up by $9 million over actual revenue realized in FY 1987, while Examination revenue will increase by $40 million over the same period.

Additional emphasis has been placed on program development related to inbound and outbound transactions.

As to inbound transactions, the IRS is conducting a special study on Controlled Foreign Corporations. These examinations will target high potential audit areas as defined by tax planning experts in the Associate Chief Counsel's (International) Office and international examiners from various field offices. The IRS is also developing projects to increase the use of data on tax returns and to improve efficiency of audit resources through the use of expert systems.

Two strategic initiatives have been adopted to address the need to position the Service for emerging global economy. These initiatives will focus our efforts to gather information on the international sector and to recruit, train and retain the high quality workforce needed to deal with these complex issues.

The IRS continues to encounter a number of problems in dealing with International compliance issues. The geographic dispersion of the population makes it difficult to reach these taxpayers in a cost effective manner. The lack of information reporting from overseas sources and limitations on enforcement authority abroad also make enforcement programs for overseas residents more challenging than for domestic taxpayers. However, the Service continues to work to address these problems and improve compliance within this population.

Measuring Program Performance

For over 12 years, IRS has been trying to develop a comprehensive performance measurement system. Without such a system, IRS is unable to (1) assess the performance of its major systems, such as the overall efficiency of returns processing during the filing season; (2) assess the impact of major programs or events, such as the Tax Reform Act of 1986, on agency performance; and (3) hold managers accountable for their performance.

SEN. DECONCINI
AND SEN. DOMENICI: What progress has IRS made in developing a comprehensive performance measurement system? Will the new system include measures of efficiency, timeliness, and quality?

MR. MURPHY: IRS has developed a Strategic Management Process that encompasses a comprehensive performance management system. The process, called "Business Review," involves an assessment of progress made by organizational components toward the strategies set forth in the Service's Strategic Business Plan. The assessment will include issues of efficiency, timeliness, and quality. The first Business Review is currently under way on a trial basis in our Midwest region.

At the same time, the Service has embarked on a productivity improvement program that emphasizes making the most of its resources. The initial focus of this program is on productivity in automation and will later address non-automation initiatives.

In addition, we also participate in the President's Productivity Improvement Program. The Service is tracking ten key functions, together covering more than 85% of the Service budget.

SENATOR DECONCINI
AND SEN. DOMENICI: Does IRS plan to include data from this system in its budget submissions? If no, why not; if yes, when can it be expected?

MR. MURPHY: The Finance Division has advised that productivity savings will be a factor in the formulation of the 1991 budget.

QUALITY IMPROVEMENT

Senator DeConcini
Senator Domenici: Has the IRS done any type of cost/benefit analysis to assess the overall impact of its quality improvement efforts? If not, does IRS plan such an analysis? Have tangible improvements or savings been documented? If so, what are they?

Mr. Murphy: IRS has not conducted a national cost benefit analysis to assess the overall impact of our quality improvement efforts. However, as some offices gain more experience in the process, they have focused on the benefits to be derived from our Quality Improvement efforts on a project-by-project basis. The Quality Improvement Information System (QIIS), an automated data base which tracks these projects, is being enhanced to capture more precise cost benefit information. This enhancement will provide national data to assist us in analysis of our Quality Improvement efforts.

We do have information available on the projected savings from some of the Quality Improvement Projects. An example of the tangible savings documented by one of our Quality Improvement efforts is the Federal Tax Deposit System Project. Approximately 1.5 million taxpayer deposits were not posting timely to taxpayers' accounts increasing the number of incorrect notices taxpayers. A Quality Improvement Team recommended more than 100 changes to the FTD system including improved processing of taxpayer orders for coupon books; improved taxpayer education; changed procedures for issuing and completing Over-the-Counter FTD forms; and increased management controls, particularly on the timeliness of reprocessing unpostable FTDs. The percentage of incorrect postings was reduced from 3.1% to .2%, representing over 2 million fewer errors. The estimated savings in human resource expenditures alone, for the reduction in "rework", is $387,000.

Another example is the Taxpayer Correspondence Quality Improvement Project - Ogden Service Center. We

were experiencing poor quality of correspondence being sent to taxpayers by the Adjustments/Correspondence Branch and the Collection Branch. In fact, forty percent of the correspondence generated by tax examiners was found to contain at least one significant error in grammar, spelling, and punctuation. In the first year we projected savings of $619,000 measured against costs of $422,000, with net savings of $197,000. We anticipate carrying forward savings of $290,000 for each subsequent year.

More important, however, than the direct dollar savings for this project are the other savings realized. Increased accuracy of the correspondence increases the accuracy of the adjustment to the taxpayer's account, reduces second inquiries, which subsequently reduces inventories, reduces the number of Problem Resolution cases and Congressional inquiries, provides more complete letters and case files, and improves the accuracy and expediency of technical reviews. All of these result in savings to IRS, as well as for taxpayers and the practitioner community.

An additional example is the collection of Agreed Examination Deficiencies - Jacksonville District. In fiscal year 1987, $3 million dollars of tax deficiencies assessed by the District Examination Division and agreed to by taxpayers were subsequently determined to be uncollectable by Collection Division. As a result of Quality Improvement effort, 43% of agreed cases in the test group are now collected in Examination Division compared with only 29% before the change in procedures. This represents a reduction in uncollected accounts of about $350,000 per year, an increase in collected revenue.

The costs associated with the failure to collect this revenue are the costs of human resources expended for the collection activities up to the point that the account was determined to be uncollectable.

Senator DeConcini
Senator Domenici: As IRS improves quality, it seems reasonable to expect the costs of inspection and rework, and thus the cost of doing business, to decrease. Is that happening? If not, why not? If it is, can IRS point to specific instances?

Mr. Murphy: Most experts state that it takes 5-10 years before a total quality culture change will become effective. There are currently over 500 quality improvement teams throughout the Service. Two of these projects were recognized by the Office of Management and Budget to receive prototype awards at the 1988 OMB Conference for Quality and Productivity Improvement. While some interim benefits can be derived due to a reduction in the costs of inspection and rework, these benefits are difficult to track in a large cross-functional organization such as IRS. A series of events is necessary in order to determine long term benefits. This requires training in the quality tools and procedures, providing control systems in which to measure the results, and reevaluating our successes in order to validate conformance to procedures.

While much remains to be done, IRS is continuing emphasis on both quality improvement and quality control. The training costs have been substantial -- ranging from private consultant training, to private sector courses, to the development of IRS courses and instruction material. Our objective is to enhance the skills and knowledges we are developing not just for Quality Improvement Teams, but with a goal of using the tools and techniques in regular work processes. That is our goal -- to make quality improvement a part of the way we do business everyday. At the same time, there is a need to consider customers' needs up-front and build quality into our systems and processes so that there are fewer errors to correct.

The Taxpayer Service function has developed a Critical Success Factor prototype that focuses on quality of service. Each Assistant Commissioner area is now in the process of following

this model in developing a Critical Success Factor prototype for their organization.

For the longer term, we are developing a prototype quality planning model which will be used to test the concept of quality planning for the Service. The goal is to develop a model with the necessary steps, tools, training, and instruction a team will need to design a system of a process within a system. The revenue collected by the Service has increased from almost $800 billion dollars in 1986 and this year we anticipate that gross tax revenues will top $1 trillion dollars. The efforts that have focused on the need to build quality into the up-front processes have decreased the "rework" resource expenditures and increased productive resources. As we continue to improve our processes the revenue collected will increase. Instead of a reduction in resource spending you will see a reduction in the costs per dollar collected.

IRS RECRUITING

Sen. DeConcini and Sen. Domenici: As a result of revenue initiatives in fiscal years 1987 and 1988, IRS was authorized more than 9,000 additional revenue agent, revenue officer, and special agent positions. On various occasions, IRS has voiced concerns about (1) its ability to attract college graduates, (2) the relatively low salaries it can offer college students compared to those offered by its competitors in the private sector, and (3) the high attrition rates it is experiencing in some areas of the country. Is IRS having serious problems recruiting good caliber college graduates to fill its enforcement positions?

Mr. Murphy: Recruiting good caliber college graduates is still difficult for IRS. The problem is especially acute in certain geographic locations (e.g. Western, Mid-Atlantic, and North Atlantic Regions). The problem is the inability to compete with the salaries paid by private industry. For example, on average we hire accountants in the 54th percentile of those taking the American Certified Public Accounting Examination. Those being hired

by the Big Eight accounting firms are in the 86th percentile.

Sen. DeConcini and Sen. Domenici: If IRS has been experiencing recruiting problems, have they been such as to cause a decline in the quality of work done by revenue agents, revenue officers, and/or special agents? Is quality a problem and, if so, what can the Committee do to help correct it?

Mr. Murphy: The IRS continues to be concerned about the shortage of quality applicants. The lack of skills present in new recruits requires more emphasis to be placed on needs assessment and specifically tailored training programs. In 1984 through 1987, we administered two AICPA accounting tests to revenue agent new hires, and found when compared to various norm groups, our hires did not do well. This indicates the IRS is not hiring the best accounting graduates, but it is difficult to compare the competency of new hires with those hired in the past years. In line with revenue agent recruitment, managers have noticed a decline in the quality of special agent hires. However, the problem has not been measured quantitatively. The IRS recognizes that new levels of quality are required to meet increasing customer needs and expectations. An action plan to track the success rate of our revenue agent recruits has been developed (Strategic Initiative ERR-12). We are also pursuing additional actions to ensure that the IRS is a competitive employer, such as special salary rates, payment of moving expenses to the first post of duty, accelerated promotion for revenue agent and officer, recruitment videos, and implementing a toll-free recruitment number. In addition, our recruitment advertising has received much acclaim (Capone ad) from the advertising industry. Our recruitment program initiatives have been very successful. Funding for these activities has allowed us to pursue different ways to meet our goal of hiring high quality college graduates.

Sen. DeConcini and Sen. Domenici: We understand that IRS' budget submission to Treasury included about $1.5 million to streamline recruitment and that Treasury reduced the amount to $850,000 and OMB eliminated it completely. What did IRS intend to do with the $1.5 million and how will its exclusion from the budget affect the recruitment program?

Mr. Murphy: IRS intended to use the money to fill staff years for personnel, and to implement a number of recruitment projects -- a recruitment toll-free telephone service (800 number), data bases to monitor the success rate of new recruits, recruitment advertising, and complete implementation of CRES (optical scanning devices). The National Commission on the Civil Service as well as other groups have found that applicants who are interested in jobs with the Federal Government encounter difficulties in learning about and applying for those positions. The use of an 800 recruitment number will facilitate the dissemination of recruitment information to prospective applicants. It will contribute to a well-conceived, better organized and more effective recruitment posture for the Service. All of the actions mentioned will provide IRS with a well coordinated recruitment program. As long as IRS can be progressive in its recruitment and hiring, we expect to maintain our fair share of the market for top quality candidates.

IRS RECRUITMENT

Sen. DeConcini and Sen. Domenici: Could IRS please provide the Subcommittee with information on the level of attrition among revenue agents, revenue officers, and special agents nationwide and in those areas of the country where attrition seems to be more serious?

Mr. Murphy: Attrition can be defined and computed in a variety of ways. The best description of attrition in the Internal Revenue Service is an explanation of what has occurred among new employees hired over the last three years (FY 86-88). Among new revenue officers hired, on average 10.7% have left the Service in their first year of employment, and 11.5% in their second year of employment. These percentages reflect an average; the actual percentage for each year has been increasing steadily over the three year period. For example, 16.2% of the new revenue officer hires in FY 88 left the Service. Among new revenue agent hires, on average 8.6% separate their first year and 13.2% in their second year of employment. Special Agents reflect a fairly consistent 6% attrition rate across the board. Cumulatively, our recent experience indicates that 22.5% of our new revenue officer hires and 21.9% of our new revenue

agent hires leave the Service in their first two years of employment. Geographically, these percentages are uniformly higher in those high cost-of-living areas such as our North Atlantic (New York and New England), Mid-Atlantic and Western Regions. Conversely, they are lower in those areas where our salary structure is more competitive and professional job opportunities are more limited. Our attrition data in the third year of employment and beyond becomes less precise, particularly as employees move between occupations within the Service. Clearly, attrition rates decline as length of Service increases.

Sen. DeConcini and Sen. Domenici: Has IRS assessed the cost of its attrition in terms of additional training and recruiting costs? If yes, what is the cost? If no, does IRS have any plans in that regard?

Mr. Murphy: We are currently studying the impact of attrition on recruiting and training costs. Preliminary data indicates that it is costly. For example, the classroom and on the job training cost for training a GS-7 Revenue Agent averages to $27,826 for travel, per diem and salary expense. The Instructor/Coach salary and travel and per diem costs per Revenue Agent is $16,133. A study completed in the Fort Lauderdale District on the total cost of hiring a Revenue Officer (recruitment and training expense) resulted in a finding that it costs $15,000 for each Revenue Officer. Clearly, if the IRS is not able to retain its new recruits, the cost of training new employees will continue to be a significant cost.

Returns Processing

Senator DeConcini: Senator Domenici: The Fiscal Year 1990 budget includes 794 additional FTE positions and $22.2 million to enable IRS to handle an expected increase in the returns Processing workload. We understand that IRS originally asked OMB for $27.2 million to fund these additional positions, but OMB cut that request by $5.4 million. How will IRS' ability to process the expected workload be comprised, if at all, by the reduction OMB made in its original funding request?

Mr. Murphy: Without the $5.4 million approximately 158 FTEs are unfunded. By itself the $5.4

million would not have a serious impact.

Senator DeConcini: We understand that in its budget
Senator Domenici: submission to Treasury, IRS originally requested $2.8 million to enable it to (1) increase the percentage of permanent staff at its 10 service centers from 47 percent to 60 percent, (2) decrease the need to hire seasonal employees and thus cut back on training and recruiting costs, and (3) improve overall efficiency and quality of service center operations. This request was denied by Treasury. Can IRS quantify the potential savings in training and recruiting costs associated with increasing the ratio of permanent to temporary employees at its service centers to 60:40? We know from reports issued by the GAO that IRS has quality problems at its service centers. Does IRS have specific data comparing the quality of work done by temporary employees to that done by permanent employees? How much is poor quality work at the service centers costing IRS? For example how much does IRS spend to check the work being done at its service centers and to redo incorrect work? What is IRS doing to get at the root causes of this poor quality work?

Mr. Murphy: At present there are no formal quantifying cost figures available. However, we believe that significant savings would be realized by increasing the permanent/seasonal employee mix to the 60/40 level. Historically, service centers have been staffed with about 60 percent permanent employees. Due to a variety of factors, permanent on-roll staffing levels dropped into the mid-to-upper 40 percent ranges over the last few years. This has led to a significant increase in recruitment of seasonal employees. For example, in October 1988, the projected hires for all the service centers was 19,210 employees which is a 6 percent increase in total hires. This figure includes the 16,217 seasonal (8 percent increase over last year) and 2,459 temporary (18

percent increase over last year) and 419 permanent (50 percent over last year) employees.

The total cost including processing and advertising expenses to enter one applicant on duty is $205. The total direct cost for entering the 19,210 employees on duty nationwide for FY 1989 will be $3,938,050. The average employee recruited is a GS-4 whose salary is $14,067 per year. Refresher training costs are substantially lower to send permanent employees to refresher training for 2-80 hours than sending temporary employees to training for 4-6 weeks. Also the loss of skilled employees impacts adversely on the overall efficiency and quality of service center processing. We plan to return to the historical 60/40 percent ratio of permanent positions in the service centers. We believe that the Service will benefit by reducing recruitment costs, developing a more experienced workforce and reducing training needs.

IRS has no specific data which compares the quality of work done by temporary employees to that done by permanent employees.

From analysis completed last September, in concert with GAO, we concluded that the direct hours spent in correction and quality assurance ranged from 14% to 21%. In terms of direct staff years, this would amount to between 2003 and 3005 staff years using 1988 staff years figures. To further the efficient and effective performance of all service center functions, a Quality Assurance Branch was established in each center in 1984. For fiscal year 1988, the nation-wide cost of operations for this Branch was 899 staff years. The Quality Assurance Branch is designed around several processes which allow management and personnel from the branch to work together to bring about the best possible quality product. The major processes include the Program Analysis System (PAS), Process Review, Quality Analysis and Notice Review. Functional processes that either correct or perfect return/documents or accounts for further processing in the ADP systems are

subject to PAS analysis. Errors are analyzed to provide management with error trends or processing deficiencies. PAS is used as a data gathering resource and support to service center quality improvement process (QIP) teams. PAS data is also used to control limits set by management and requires further action. Process Review is a work-in-process review method which allows each center to conduct detailed analyses of how a function is performing its required tasks. It provides immediate "upfront" evaluation data so that corrections can be effected by the functional area before the products move into the next work area. Used with PAS, process reviews concentrate on determining the root causes of the top PAS identified error conditions. All service center functions may be subject to quality analysis to determine if operating procedures or processes are consistent in bringing about a quality product. Management often requests Quality Assurance Branch personnel to perform an analysis to determine operational deficiencies. Taxpayer notices and refund transcripts are subject to review and analysis to detect process breakdowns. This serves as a conduct for providing notice and refund information (e.g. changes in format, volumes, computations, and instructions) to local management, district, regional and national office personnel.

Recent initiatives established by IRS to increase quality include: The establishment of a strategic business plan which will provide a long-term strategy for meeting the challenges facing the IRS; the reorganization of top level management in the agency to provide greater accountability and improve internal communications; the implementation of a management/union agreement to develop initiatives to improve quality and services provided by the agency; and, initiating the redesign of the tax information system to provide better customer service and increase the efficiency of the agency. In addition, the Quality Innovation Enhancement Program was strengthened through an active publicity campaign; Internal Audit staffing received the first of several annual increases designed to

facilitate better internal program reviews; executives and representatives of the union are directly involved in quality improvement training using the techniques offered by Dr. Joseph Juran; and, we have established "Quality Councils" which meet regularly to assign Quality Improvement Teams to address systemic problems. There are presently over 500 of these teams in existence. We have also begun to do quality planning. This planning includes establishing program effectiveness measures, meeting customer needs, eliminating barriers to quality, instilling a commitment to quality throughout the IRS, and adapting our management information systems to track progress in achieving quality goals.

SAVINGS FROM A-76

SENATOR DECONCINI AND SEN. DOMENICI: How successful has IRS been to date in achieving the A-76 savings called for in the 1989 budget or in identifying areas where such savings can be achieved?

MR. MURPHY: IRS has not achieved any savings called for in the 1989 budget. However, we have identified over 5,200 positions which can be reviewed under A-76 procedures for savings potential.

SEN. DECONCINI AND SEN. DOMENICI: Please identify specific projects, if any, and the realized or expected savings associated with those projects.

MR. MURPHY: We have not realized or projected savings on our "inventory of commercial activities" subject to A-76 review (shown below in summary form).

Activity	Positions Covered
CIDS (Centralized Inventory and Distribution)	720
Financial Audit	180
Payroll/Personnel System	524
Detroit Computing Center	614
Machine Services	150
Other Service Center Activities	1535
Other District Office Activities	1332
Other National Office and Regional Office Activities	227
	5282

SEN. DECONCINI
AND SEN. DOMENICI: How was the $13 million in A-76 Savings included in the fiscal year 1990 Budget request computed? What was IRS' role in arriving at that figure?

MR. MURPHY: IRS had no role in computing this figure. According to the OMB passback, the figure was computed as follows:

"The allowance assumes A-76 savings of $13.0 million (1,487 FTE) in 1990. The savings projection is based on a formula: Since 1981, agencies have achieved average savings of $9,666 per FTE studied and have reduced FTE at the rate of over 60 percent studied.

"For purposes of deducting funds from the budget requests, we first used a dollar reduction of $4,875 per FTE to be studied (50 percent of the potential). We reduced that number by 25 percent. The FTE reduction rate used is 43 percent of the agency's study goal. This is about a 25 percent reduction from the average actual FTE reduction experience."

SEN. DECONCINI
AND SEN. DOMENICI: What specific areas have been identified or seem to hold the most potential?

MR. MURPHY: The following areas have been identified for A-76 reviews and are expected to be completed in FY-1990:

CIDS
Machine Services
Return Files (Ogden Service Center)

TAX SYSTEM MODERNIZATION

Sen. DeConcini
Sen. Domenici: We understand that IRS is in the process of identifying a technical architecture for Tax System Modernization. We understand that there are three potential candidates: the Arthur Andersen Automated Examination System Technical Architecture; the yet to be defined technical architecture resulting from the Mitre Corporation's System Engineering effort; and, if a follow-on contract is successfully negotiated with James Martin, Inc., yet a third technical architecture will be identified. This appears to be a potentially expensive duplication of effort. Is this truly a duplication of effort and if so why is it needed? What is the cost of these three initiatives?

Mr. Murphy: The IRS is currently developing, with contractual support, a target architecture for the Tax Systems Modernization effort. This target architecture will include a user requirements analysis, logical design, physical design, telecommunications and security architecture, and cost/benefit analysis. The target architecture will serve as the blueprint that IRS will follow to lead its way in the use of information technology into the 21st century. The blueprint will describe, at a high level, the way IRS will conduct its business and the physical architecture (computers, software, telecommunications) that will support this way of doing business. It will incorporate the results of all ongoing or completed initiatives.

The Technical Architecture recommendations of the Automated Examination System (AES) are being studied in more detail during our target architecture development. The AES architecture recommendations concentrate on developing standard methods of interacting with the target architectures's operating systems, communications, security, data access and programs. This standard interface approach will be used during the detailed design, development and implementation of the target architecture. Therefore, the architecture recommendations developed by AES will be an integral part of the target architecture, and not a separate architecture.

The Information Engineering activities which are underway are providing the Service with a detailed analysis of its data and related processing requirements in an effort to maximize sharing of computer resources. The Information Engineering methodology complements the development of the target architecture. This methodology will be used to develop the data models needed to complete the detailed analysis of the target architecture alternatives. Once the target architecture is identified, the methodology will be used to develop the details of the design of the target architecture. The Office of Systems Engineering (ISD:SE) is responsible for coordinating these efforts to ensure that duplication of effort does not take place during this extremely critical activity.

COSTING INFORMATION:

AES Technical Architectures: Funding Costs not Available to ISD

Engineering Support: $13.4M

Strategic Data Planning: $1.3M

Sen. DeConcini
Sen. Domenici: Eight of the 91 projects shown in the FY 1990 Information Systems Plan are specifically identified as Information Systems Division projects, and the total budget request for them is $141,453,000. Are these the only

projects associated with the Tax System Modernization effort, or are some of the other projects wholly or partially supporting the Modernization effort? What is the total life cycle cost estimate for the modernization effort? If you don't have one yet, when do you expect one?

Mr. Murphy: While there are many projects external to ISD which support the Service's Tax System Modernization (TSM), the eight ISD projects represent the core of this effort. More clearly, ISD is acquiring substantial hardware to house the many applications and also developing several large applications of their own.

ISD plans to present detailed life cycle cost information of their TSM efforts when a more clearly defined structure of target architecture becomes available. The expected date for this presentation is October of 1989.

Sen. DeConcini
Sen. Domenici: Two of the Modernization projects --Information Systems Mission Development Support (FY 1990 requested funding of $10,878,000) and Long Term Redesign of the Tax Administration System (FY 1990 requested funding of $28,949,000) do not appear to be identified with any specific hardware or software endeavor. Would you please provide us with a breakdown of what the funds in those two projects will be used for?

Mr. Murphy: IS-01: Information Systems Development Support funds the basic activities some which of would occur even if there were no modernization effort. The key activities are the ADP Standards Program which establishes and evaluates IRS Standards for software development. Systems Engineering and Integration which is defining the alternatives, choosing a target architecture, and assuring a smooth transition and complete systems integration, and Project Management activities including development of project management standards and training. Also included is National Office staffing in support of the Assistant Commissioner (ISD).

The costs for Information Systems Development Mission Support are distributed as follows:

$7.2M	Staff Year Costs
$2.5M	ADP Equipment Costs
$1.2M	Support Costs, of which $1 million is for training and travel.

IS-04: Funds for Long Term Redesign of the Tax Administration System will procure contractor support for long term systems design, engineering, integration, transition planning, and technical support. Activities under initiative IS-04 will review the potential alternatives for modernization of the tax administration system, analyze/compare these design transition planning and systems integration, and configuration alternatives to select the best one (target architecture), ensure that other IRS system design and development activities fit into the target architecture plans (integration), and build a road-map for accomplishing the design, development, and implementation of the selected approach (transition plan). The Information Engineering activities previously discussed will identify redundant data and processes used to verity data distribution and transition plans for the development of the target architecture. Computer models, prototypes, and research projects will be used to evaluate and revise, as necessary, the technology assumptions of the architectures. 400 software development tools and workstations, which will provide substantial productivity savings and speed programming modifications , will be acquired at an approximate cost of $6 million to be employed in these projects.

The FY 1990 requested funding of $29.949 million is for the following efforts:

$13.4M Systems engineering and integration support to begin the transition to the target architecture. An integration support contractor will

provide a full range of support including transition and integration of the architecture, specification development for acquisition, proposal evaluations, benchmark and systems testing, and software and application program development.

$6.7M ISD and non-ISD staffing for evaluation, software, security and standards activity, contract administration and acquisition support.

$6.2M Acquisition of computer aided software engineering workstations which will improve programmer productivity and provide savings in software maintenance costs. These will be used to build the systems that will make-up the Modernized Tax System.

$2.6 Remaining dollars support activities such as program development software, security activity, and standards development.

Sen. DeConcini
Sen. Domenici: We understand that the SCSS "Requirements Analysis Package" (a step in the procurement process) has been delayed. Why has this delay occurred, and how will this affect your ability for timely processing of tax returns in the future? Please provide the original and current milestone estimates for the following key events: approval of requirements analysis package, issuance of requests for proposals, contract award, installation at first service center, and completion of installation service-wide.

Mr. Murphy: The RAP has been delayed due to the extensive review process; however, most of this slippage will be recovered, so that the ultimate system operation will only be delayed by three months. This will be accomplished through more reliance on outside assistance. This delay impacts money designated for purchase of equipment, since the contract award will no longer take place in FY 90. However, this money will be needed for data processing services as outlined below. This delay will have a minimal impact on tax processing, since we will be operating parallel with the current system.

COSTING INFORMATION:

DP Services

Contractor support for acquisition teams, including evaluation of proposals, conversion studies, benchmarking, implementation planning, etc.

IS:D ---$ .9M

Software conversion costs (contractor developed conversion) from Service Center Replacement System (SCRS) to SCSS.

IS:D ---$ 4M

Independent Evaluation of SCSS Acquisition Activities (technical and managerial evaluations).

IS:D ---$ 1M

Independent Evaluation (Technical and Managerial) of SC Dept. Applications and service center Prototype Activities (including support of; Integrated #!anagement System (IMS), Automated Underreporter (AUR), and Electronic Filing System (EFS).

IS:AP---$ 3.5M

Support for system design, development and prototyping (Contractor Support)

IS:AP---$ 3.1M

Local Area Network (LAN) Communication Standards Support

IS:S ---$ .6M

DP Services Needs

$13.1M

Milestones:		Original	Current
RAP submitted		9/30/88	3/31/89
RFP issued		7/31/89	12/31/89
Contract Award		5/31/90	12/31/90
Initial Installation		9/30/90	5/31/91
System Operational	*	9/30/92	12/31/92
	**	9/30/94	12/31/94
	***	9/30/98	9/30/98

* Identified as Phase I of the SCSS initiative.
** Identified as Phase II of the SCSS initiative.
*** Identified as Phase III of the SCSS initiative.

Sen. DeConcini
Sen. Domenici: You are requesting $21 million for SCSS in FY 1990. Please provide a breakdown of how these funds will be used, particularly in light of the delay in the project.

Mr. Murphy: As a result of the delay we will not be purchasing major hardware equipment in FY 90; however, these funds will be used for needed data processing services as outlined in Q and A number 2. The following is a breakdown from our current ISP initiative IS-08.

ADP cost will be $14.066 million in which the majority is outlined in Q and A number 2. Staff year costs will be $10.436 million which includes partnership staff years for work such as ensuring facilities and space is ready for the equipment and needed telecomunication work to ensure connectivity of systems. Support Cost of $4.531 million will provide some management consulting support as well as ISD training etc. The total for FY 90 is $29.033 million.

TAX GAP

In its tax gap estimates, IRS projected that the revenue lost through business noncompliance would increase from an estimated $21.4 billion in 1987 to an estimated $31.1 billion in 1992.

Sen. DeConcini&
Sen. Domenici: How, if at all, is IRS going to address the projected increase in business noncompliance through document matching?

Mr. Murphy: We have already developed a system to match the income reported for sole proprietors under their Employer Identification Number (EIN) which will be used in our individual matching program for tax year 1988 returns. We are now conducting studies for information reporting programs for corporations and partnerships. These studies will be completed by the end of 1991. They will determine the feasibility of using information returns to identify corporations

and partnerships which haven't filed tax returns and the costs and benefits of matching information returns and tax returns to identify corporate underreporters. Based on the results of these studies, we will recommend whether, and how, to implement such programs.

Sen. DeConcini and Sen. Domenici: What are IRS' plans for reducing the business tax gap through increased audit coverage or other compliance efforts?

Mr. Murphy: In addition to our efforts to reduce the business tax gap through traditional compliance methods, the IRS Research Division is considering initiatives to test a variety of different and innovative means of communicating with new businesses. The effectiveness of these efforts will be carefully evaluated through monitoring the cost/effectiveness of test and control groups. Upon completion of these tests, an evaluation and recommendation can be made as to which initiatives should be incorporated into ongoing IRS activities. The underlying hypothesis of these initiatives is that or better - informed business taxpayer will be more compliant in carrying out his/her filing, paying, and accuarte reporting responsibilities.

Sen. DeConcini& Sen. Domenici: In March 1987, GAO indicated the need for a business information returns program (GAO report GGD-87-4). Does the IRS plan to develop such a program? If no, why not? If yes, what kind of businesses will be affected and what is IRS' timetable?

Mr. Murphy: As I indicated, corporations and partnerships would be affected based on the feasibility of developing programs for either type of filer. We are looking specifically at corporate filers of Forms 1120, 1120A, and 1120S. Given the timing of our studies,

the first filing period which could possibly be affected would be returns for the filing year ending in December 1992. Following that, the first nonfiler or underreporter cases for a pilot program would be available in 1994.

Taxpayer Correspondence

Senator DeConcini:
Senator Domenici: In July 1988, GAO issued a report (GGD-88-101) in which it concluded that IRS was not doing a good job in responding to taxpayer correspondence or in preparing correspondence to notify taxpayers of adjustments to their amounts. GAO reported that of the correspondence cases closed during the period covered by its sample at three service centers, 31 percent had critical problems involving incorrect adjustments and incorrect or unresponsive letters and that another 16 percent had less serious problems. We note that IRS' Fiscal Year 1990 request includes 52 positions and about $2 million to improve correspondence to taxpayers. We also understand that the Treasury Fiscal Year 1990 budget submission to OMB asked for about 4 times that amount (202 positions and about $79 million). What is IRS' best estimate of the additional costs currently being incurred because of poor quality correspondence, such as costs associated with the need to follow-up correspondence from the same taxpayer? I understand the original IRS Fiscal Year 1990 request included an amount 4 times higher than that contained in the Reagan budget to improve correspondence to taxpayers. What was IRS planning to do in Fiscal Year 1990 with the resources originally requested that it will be unable to do with the level of resources contained in the Reagan Fiscal Year 1990 request? Since IRS has been denied the substantial increase in funding it originally requested to improve

taxpayer correspondence, is it fair to assume that problems such as those noted by the GAO in this area will continue? Recognizing that not every solution to a problem requires increased funding, what has IRS done within its existing resources to improve taxpayer correspondence and to rectify those problems discussed in the GAO report?

Mr. Murphy: Until recently, the Service did not have a system in place to track repeat cases due to IRS errors. The newly improved Program Analysis System will begin tracking repeat correspondence cases this year, and determine the cause of the subsequent inquiry.

The primary purpose for the additional resources was to decrease the ratio between management and tax examiners in the Adjustment units in the service centers. This reduced span of control would enable management to become much more proactive in the review of the technicians' work to ensure a quality product. An Adjustment Managers Manual was issued in mid-1988 which outlined required review practices. Without the staffing to implement the planned increase in managers, some centers are unable to meet all the review requirements. However, this manual is being used and followed to the extent possible. Some centers continued with their plans to reduce their span of control in Adjustments by reducing staffing elsewhere. The impact of these staffing changes has not yet been determined.

Although some of our planned improvements may be delayed due to the denial of additional funding, many of the planned actions are continuing with existing resources. We are confident the initiatives outlined below will have a positive effect on improving the quality in Adjustments.

Following is a summary of the initiatives currently underway to correct the problems addressed by GAO:

- The Adjustments/Correspondence Program Analysis System was developed and became operational on January 1, 1988, to collect data that will provide a basis for measuring program effectiveness. To ensure this system was meeting its objectives an extensive review of the system took place toward the end of 1988. All problems that were identified have been addressed and resolved. A major training effort is underway to ensure all PAS analysts are thorough and consistent in their data collection.

- Review of existing training material and training standards

- we are currently developing a method to track and measure individual examiners training accomplishments. We are reviewing existing training material for conversion into module components, and development of automated training packages where possible. Also during this year's hiring season, one center implemented "pass/fail" testing criteria. The success and feasibility of this is being reviewed for national implementation.

- One center is currently testing unmeasured production in three tax examiner units. The employees in these units are not evaluated based on a standard quantity/quality production rate. They will be evaluated strictly on performance through managerial reviews. The result of this test is being monitored by the national office.

- The Service is currently developing state-of-the-art correspondence software, in addition to revising all existing computer letters. The new software will be ready for testing in May 1989. This system will provide spell check capabilities, the ability to review the complete letter on screen, and a user friendly index system which will aid in the selection of the appropriate letter. The system will also guide the examiners the preparation of letters. The revision to the letters has drastically reduced the volume of letters which will aid in the proper selection of appropriate letters. In addition, service centers have individually implemented many other initiatives in an effort to improve their quality and responsiveness to taxpayers' correspondence. These local initiatives include: changing the title of tax examiners to customer service representatives; cards were printed for the employees to enclose with their correspondence which gives them a feeling of ownership of the case and taxpayers are much more receptive due to this personal touch; the use of FAX machines to obtain information quicker from taxpayers and preparers which decreases the need for additional correspondence; increasing the ratio of telephones to tax examiners in Adjustments to provide for use of telephone contacts to resolve cases when possible, which reduces the need for correspondence; development of a training video tape on proper phone use; and, providing work organization training for managers.

TAXPAYER SERVICE: CONVERSION OF TEMPORARY STAFF TO PERMANENT

Sen. DeConcinci and
Sen. Domenici: How will the number of full-time equivalent staff employed during the non-filing season in fiscal year 1990 compare to the number of full-time equivalent staff IRS employed in fiscal year 1988?

Mr. Murphy: Of the $55.88M in the budget request for Taxpayer Service, our current plans include applying $2.3M to convert 350 temporary TSRs to full-time permanent status and $2.6M to convert 420 TSRs to TSSs. For comparison, this would provide nearly a 10% increase over the 3,641 permanent full-time TSRs and TSSs on board at the close of FY 1988. Total permanent staff including management, technical and support, was 5,414 at the close of FY 1988.

Appropriated full-time equivalent staff for Taxpayer Service (budget Activity) in 1988 was 8,398. This compares to 8,216 in the 1990 budget estimate.

Sen. DeConcinci and
Sen. Domenici: What work will these additional permanent staff be doing during the non-filing season, and how will this differ from the kind of work Taxpayer Service staff currently do?

Mr. Murphy: The additional permanent staff do not represent an increase in overall staffing but rather a conversion of temporary to permanent employees. Any new permanent employees will be doing the same work currently performed by Taxpayer Service. No different or unique assignments are envisioned for these employees during the non-filing season.

Taxpayer Service workload has changed significantly over the years from one heavily weighted toward filing season individual tax law assistance, to one involving more year-round assistance, information and education programs. In our toll-free telephone operations, technical tax law inquiries now make up only 35% of the overall workload, with account related and procedural inquiries making up the balance. For example, Taxpayer Service responsibilities include determining the appropriateness of part-payment agreements, extensions of time to pay, payment tracer actions, and responding to questions about service center notices, all of which occur year-round.

Sen. DeConcinci and
Sen. Domenici: How much does IRS expect quality to improve by converting temporary employees to permanent staff? How does that benefit compare to the cost involved in making the conversion?

Mr. Murphy: IRS expects quality to improve as a result of the increased experience of a workforce comprised of a higher percentage of permanent full-time employees. Taxpayer Service currently incurs an attrition rate of 38% for temporary TSRs and TSSs.

IRS is unable to provide a precise estimate of the expected increase in quality compared to the cost of making the conversions. To a great extent the benefits for increased quality are intangible and involve such things as better service, public image, morale, and impact on retention.

Sen. DeConcinci and
Sen. Domenici: What studies has IRS done to measure differences in the quality of assistance provided by temporary employees compared to permanent staff? When were those studies made, and what were the results?

Mr. Murphy: The IRS does not maintain accuracy statistics for its Taxpayer Service programs by employment category. However, a comparison of FY 1988 employee experience levels and accuracy of technical tax law assistance in our toll-free telephone sites reflects that sites with a more experienced workforce clearly provide more accurate answers.

Sen. DeConcinci and
Sen. Domenici: Before deciding to convert temporary employees to permanent staff, what alternatives did IRS consider?

Did IRS assess the potential improvements from different mixes of temporary and permanent staff?

Did IRS consider phasing in the conversion to see if quality does improve?

Did IRS consider keeping the current mix of employees, giving the temporary employees a few more weeks of training, and seeing how that might improve quality.

Mr. Murphy: Along with our plans, as previously mentioned, to increase the mix of permanent to temporary employees in Taxpayer Service during 1990, we plan to convert 420 TSRs to higher graded and better trained TSSs. This will result in an increase in

accuracy not only from the additional training these employees receive but from an increase in employee retention and thus experience by increasing career opportunities.

The increase in the percentage of TSSs is justified by the greater complexity of the work in Taxpayer Service alone. However, a lack of a substantial career path for Taxpayer Service results in an inordinate loss of employees to both the private sector and to other IRS functions. Taxpayer Service employees are typically hired as either GS-4 or GS-5 TSRs. From there they can advance to the highest grade TSR, GS-7, in just two or three years. TSSs range from GS-5 to GS-9. By providing a longer, more challenging career path, we expect to further increase retention.

The increased year-round workload in Taxpayer Service would permit us to absorb many more than the planned 350 new permanent employees.

IRS has not only considered but implemented many improvements to the training provided for its Taxpayer Service employees. In 1987 Taxpayer Service began a total restructuring of our technical training. An evaluation of the existing course material regarding its relation to the current operations, workload and our commitment to quality was performed. Realistic examples, questions and situations were reflected and increased as well as retention tests. Use of publications, IRMs and communication techniques were demonstrated throughout the material. Also new lessons were added to cover additional tax matters. On-the-job-training program was redesigned to familiarize the OJT process.

While IRS fully expects these efforts to improve the accuracy of the services provided by its Taxpayer Service employees, they do not address the quality problems inherent in recruiting, hiring, and training an average of 2,448 new and totally inexperienced employees each year to perform a highly complex and demanding job.

TAXPAYER SERVICE: TELE-TAX SYSTEM

Sen. DeConcinci and
Sen. Domenici: IRS' budget request includes an additional $700,000 for the Tele-Tax system, even though IRS expects the number of taxpayers using Tele-Tax in fiscal year 1990 to be the same as in 1989 (about 14 million).

What are these funds going to be used for? What is the total cost of the Tele-Tax system?

Mr. Murphy: IRS' Tele-Tax systems have been working at maximum capacity with extremely high overflow calls. Consequently, the IRS is in the process of procuring up to 30 additional Tele-Tax systems. However, vendor protests have delayed our installation schedule. The additional funds in FY 1990 will be used for additional circuitry. Total calls for FY 1990 now are estimated to exceed the 14 million estimate in the FY 1990 budget. Tele-Tax equipment, circuitry and maintenance will cost approximately $8.2M for FY 1990.

Sen. DeConcinci and
Sen. Domenici: How does the cost of a call to Tele-Tax compare to the cost of a call to an assistor at a toll-free site?

Mr. Murphy: It costs the taxpayers the cost of calling within their local calling area.

Sen. DeConcinci and
Sen. Domenici: Does IRS have any information on the extent to which taxpayers call a toll-free site after trying to get an answer through Tele-Tax?

Are surveys made of callers to the toll-free number to determine if they had tried to get responses to their questions from Tele-Tax before calling the Toll-Free number?

Mr. Murphy: IRS does not have specific information on the extent to which taxpayers call a toll-free site after trying to get an answer through Tele-Tax. However, sites conduct a Taxpayer Satisfaction Survey each Tuesday to determine if taxpayers are satisfied with the tax information topics. Consistently, over the past three years surveys have shown that approximately 85% of the taxpayers are completely or partially satisfied with the information received from Tele-Tax. The survey results are used annually when tax information topics are being updated.

Additionally, some of the refund responses received from the Tele-Tax system instruct the caller to contact the toll-free site for further assistance.

No surveys are conducted of callers to the toll-free system to determine if they had tried to get responses to their questions from Tele-Tax.

Sen. DeConcinci and
Sen. Domenici: Given the relatively low number of calls made to Tele-Tax to obtain tax law information, has any study been made of the cost of providing such information through Tele-Tax as compared to the cost of providing it through the toll-free sites?

Mr. Murphy: An IRS Tele-Tax call costs $0.45 per call compared to $2.64 per call on the IRS toll-free system.

YIELD FROM REVENUE INITIATIVES

Sen. DeConcini and
Sen. Domenici: In August, 1988, GAO issued a report on the difficulties in accurately estimating yield to be derived from examining tax returns (GAO report GGD--88-119). That report raised several questions about the accuracy of IRS' estimates as to the amount of revenue IRS expects to derive from its overall Examination program and the amount of additional revenue the IRS generated as a result of the Fiscal Year 1987 Revenue Enhancement Initiative.

What has the IRS done or what is the IRS planning to do in response to the GAO recommendation that the IRS systematically reexamine and validate the process for estimating Examination yield?

Mr. Murphy: Even prior to the GAO report, we had begun designing a system that will summarize from the masterfile actual enforcement-related payments. The first output of this system is expected in July, 1989, and meaningful analysis will be possible shortly thereafter.

Arising largely from GAO's recommendations, we launched a thorough, multifunctional study of the present methods for estimating enforcement revenue. This has included discussing problems and criticisms of the present system with representatives of GAO and CBO, as well as within the IRS and OTA. Our research is

addressing all of the criticisms raised and more. The results of this research should be available by the end of this fiscal year.

Sen. DeConcini and Sen. Domenici: In its report GAO noted that amounts shown as actual assessments in the Examination portion of the IRS budget are only estimates. In that regard, the column heading for Fiscal Year 1988 in the justification materials has been changed from "Actual" to "Estimated Actual".

Why is it so hard for the IRS to determine how much was actually assessed, or collected, as a result of its Examination program in any one year?

Mr. Murphy: The IRS management information systems were designed many years ago on a functional basis. These various systems - the Examination MIS for tracking recommended tax and penalties, the Appeals process for recording settlements of appealed cases, and the Collection system for recording results of failure to pay cases - are not integrated.

A bridge MIS report was designed in the early 1970s to track Examination results through to collection. The IRS has had difficulties maintaining this system and as a result of problems encountered with the Service Center Replacement System, much of the data base was wiped out. Consequently, the IRS has had to rely on old data in estimating Examination revenue flows. The Service is currently looking at alternate methods of estimating using more recent data from other information systems.

Sen. DeConcini and Sen. Domenici: Does the IRS intend to develop a methodology for computing actual assessments and collections and, if so, when? How soon can Congress expect to see actual assessed and collected amounts in the budget?

Mr. Murphy: As part of an Administration management objective, the IRS is developing extracts of our masterfile to determine more precisely what is collected as a result of enforcement activities. This data will still be based, to a small degree, on assumptions regarding the definition of enforcement revenue. It is certain, however, that these extracts will provide the information to develop actual assessed and collected amounts to a much higher degree than we are now able to achieve. The first of these extracts is scheduled to be available, on a monthly basis, in July, 1989. Initial reports will cover only gross and net IRS revenue collections, not assessments. The data on assessments will be developed soon thereafter. Interpretation of this information will be necessary and actual collected amounts will not be available for the budget until FY 1992 at the earliest.

Sen. DeConcini and
Sen. Domenici: Does the IRS have the capability to track actual revenues and costs associated with each of these initiatives to see how closely they match IRS' estimates?

Mr. Murphy: At the present time the IRS has only limited ability to track initiative costs and the actual revenues which result. The current administrative cost accounting system does not have a distributive labor component capable of assigning costs to individual employees. Thus, we can only estimate costs from aggregate totals. We use estimating techniques and engineering models to determine the results of particular initiatives from overall program results. We do not assign or track revenue collections by individual employee. We do, however, collect data at group and grade levels and can make, we believe, fairly accurate estimates of the revenues which result from a particular initiative.

Sen. DeConcini &
Sen. Domenici: The IRS revenue initiatives included in the fiscal year 1990 Reagan budget request seek to generate additional revenue through quick turn-around

cases, not through audits. Given the pressure in recent years to generate additional revenue to help reduce the deficit, why haven't these quick turn-around cases been prioritized by the IRS before this?

Mr. Murphy: Historically, IRS has worked all the potentially productive service center contact cases. The corrections program consists primarily of pre-identified returns where we have information that a deduction or exemption claimed on a tax return is invalid or a credit erroneously claimed. In the last few years, we have devoted approximately 1,000 positions at our service centers to maintaining inventories of the tax returns of the individual partners of abusive tax shelter partnerships that were under examination. These positions were diverted from service center Examination corrections programs. Now that we are closing our examinations of those abusive tax shelters, we are able to reallocate some of these service center Examination resources back to the corrections program. With this reallocation and the revenue initiative contained in our FY 1990 budget request, we will be working all productive contact cases.

YIELD FROM REVENUE INITIATIVE

SEN. DECONCINI
AND SEN. DOMENICI: Of the total $54.7 million and 1,360 FTE positions requested for revenue enhancement initiatives in fiscal year 1990, $27.8 million and 529 FTE positions are requested for the "collection of unpaid taxes". What specifically is being proposed to increase the collection of unpaid taxes?

MR., MURPHY: An initiative to improve compliance and collect additional taxes owed but not paid is being proposed. We would hire 497 revenue officers to work cases assigned to Collection that we are currently not able to work. In FY 1988, 3.1 million tax delinquent

accounts were issued, while we could only dispose of 2.6 million. We estimate that, with the additional staff, we would close an additional 47,000 delinquent tax accounts and collect $107 million.

EXEMPT ORGANIZATIONS

SEN. DECONCINI and SEN. DOMENICI: Congress has expressed concerns about a number of issues in the exempt organization area including unrelated business income, competition between tax-exempt organizations and taxable businesses, lobbying and political activities, and television ministries. In your budget request to OMB, did IRS ask for positions and funding to enable it to enhance enforcement in those areas and to correct inaccurate data in the Exempt Organizations Master File? How much did you request?

MR. MURPHY: Yes, we requested 49 positions and $2.4 million for these purposes.

SEN. DECONCINI and SEN. DOMENICI: What specifically did IRS intend to do to enhance enforcement in the exempt organizations area?

MR. MURPHY: The additional resources were requested in order to assist in taking actions requested by Congress, to educate the exempt organizations community, and to correct data on the Exempt Organizations Master File. Specifically, resources were requested to prepare a report on exempt organizations filings of unrelated business income tax returns, to integrate examinations of exempt "parents" and their taxable "subsidiaries", to emphasize a program to ensure that charitable exempt organizations inform contributors about deductibility of their contributions, to enhance exempt organizations taxpayer education and taxpayer assistance, and to purify data on the Exempt Organizations Master Master File in order to respond to Congressional and public requests for information.

SEN. DECONCINI
and
SEN. DOMENICI: Did IRS' plan include increasing audit coverage beyond the 2.92 percent called for in the budget? If no, why not? If yes, what level of audit coverage does IRS consider appropriate for exempt organizations?

MR. MURPHY: Our plans did call for a slight increase in our EO examination coverage rate to 3.00 percent, i.e., about 450 additional examinations beyond the 14,900 called for in the budget. Three-fourths of the additional resources would have been devoted to activities other than conducting examinations, such as analyzing compliance issues, preparing reports, and educating taxpayers. We consider the 2.92 percent coverage rate adequate to provide an IRS presence in the exempt organizations community.

SEN. DECONCINI
and
SEN. DOMENICI: Does the budget request for Fiscal Year 1990 provide sufficient resources to enable IRS to effectively respond to Congressional concerns about exempt organizations?

MR. MURPHY: By making effective use of our exempt organizations resources, that is, by directing the use of those resources toward the areas most in need of compliance attention, we believe we will be able to achieve an appropriate level of enforcement.

SEN. DECONCINI
and
SEN. DOMENICI: What does IRS do to ensure that exempt organizations report income from and pay taxes on unrelated business activities?

MR. MURPHY: Our examination guidelines provide direction to our agents to emphasize the enforcement of exempt organizations' requirements for filing Forms 990-T in appropriate cases.

We are also conducting a Taxpayer Compliance Measurement Program (TCMP) of Form 990-T and a related program aimed at identifying delinquent Forms 990-T through examinations of Form 990. Data gathered from the current TCMP will be used to analyze unrelated business income activities and subsequently to develop filer profiles and a Discriminant Function (DIF) Formula to select Forms 990-T for examination.

Additionally, in response to a request from Representatives Rostenkowski, Archer, Pickle, and Shultz, we have announced plans for a major addition to Form 990 that, for tax years 1989 and later, will increase requirements to report income producing activities and to explain their relatedness to exempt purposes. To offset the increased reporting burden imposed by the expanded Form 990, a Form 990-EZ will be introduced for the use of smaller organizations.

SEN. DECONCINI and SEN. DOMENICI: What sanctions, such as penalties or revocations, have been most effective in encouraging voluntary compliance among television ministries and religious broadcasters? Would other sanctions better encourage compliance among television ministries and religious broadcasters? Would other sanctions better encourage compliance and/or change IRS' need for enforcement resources in this area?

MR. MURPHY: With the exception of private foundations and the system of excise taxes applicable to them, it has been our experience that there are no effective sanctions, short of revocation of exemption, available to prevent abuse by charitable organizations including television ministries. This problem of a lack of balanced, effective sanctions commensuate in scope with the improper acts has been compounded, in the case of television ministries, by the fact that many of the organizations are churches, and, therefore, are statutorily excepted from providing

the IRS with any information concerning finances or activities. Such church organizations need not even notify the Service of their existence to be considered exempt from federal income tax. In addition, IRS examinations of the entities are severely curtailed by the church audit procedures of IRC 7611.

The sanction problem could be addressed by extending the Foundation Excise Taxes in Chapter 42 of the Code to all IRC 501(c)(3) organizations, not just private foundations. This step is, in fact, recommended in our recent study on Internal Revenue Code penalties. We are currently studying how the problems flowing from the lack of information about churches might be addressed.

SEN. DECONCINI and SEN. DOMENICI: Is information in your Exempt Organizations Master File inaccurate? Please provide details on that problem.

MR. MURPHY: Some information is inaccurate. An undetermined number of exempt organizations listed as having "voluntarily terminated" their exempt status are in fact still in operation. In other cases, we have been unable to locate exempt organizations and we cannot determine if they have actually ceased operations or if they continue to operate but have ceased filing returns.

SEN. DECONCINI and SEN. DOMENICI: How does inaccurate data affect the reliability of data being presented to the Congress?

MR. MURPHY: Erroneous data contained in the Exempt Organizations Master File leads to inaccuracies in and omissions from Publication 78, Cumulative Listing of Exempt Organizations. Accordingly, we are not always able to provide Congress answers on specific organizations. Also, the erroneous data has impeded our ability to accurately report to Congress the number of exempt organizations existing in each of the various exemption categories.

SEN. DECONCINI
and
SEN. DOMENICI: How does inaccurate data affect IRS' ability to assess its performance in the exempt organizations area?

MR. MURPHY: Data on the Exempt Organizations Master File is not used to assess our performance. Separate management information systems are used for that purpose.

However, the Exempt Organizations Master File inaccuracies do hinder our ability to assess the scope of needed taxpayer information efforts and of needed enforcement efforts. For example, as we issue mailouts designed to explain legislative changes affecting only specific types of exempt organizations, we cannot be sure that all such organizations are identified to receive the information.

Also, as we develop special emphasis enforcement programs to address specific compliance problems, we cannot be sure that we are identifying all organizations sharing predetermined characteristics which tend to indicate those specific compliance problems.

It is important for us to be able to obtain and provide accurate information in order to give higher quality customer service to the general public and to the exempt organizations community as well as to enhance our enforcement efforts.

The Tax Reform Act of 1986 increased the standard deduction and eliminated some itemized deductions. These changes were expected to increase the number of non-itemizers and eliminate the need for many low-income individuals to file returns.

Sen. DeConcini&
Sen. Domenici: To what extent will these changes allow IRS to concentrate its compliance efforts on computerized techniques (such as document matching) instead of the more traditional district office examinations?

Mr. Murphy: The net effect of many TRA individual provisions such as the increase in the standard deduction, the increase in the floor for employee business expense (2 percent versus no limitation), and the phase out of consumer interest is to eliminate or streamline many issues previously subject to examination. Some of these areas are under review for computerized checks. Resources previously expended on these areas during examinations will be allocated to different issues. The net impact of this cannot be estimated at this time.

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

TWENTY YEAR RETIREMENT FOR REVENUE OFFICERS

SEN. MIKULSKI: As you know, I have sponsored a piece of legislation (S. 513) which would provide a 20 year retirement benefit under 5 USC Section 8336(c) for Revenue Officers of the Internal Revenue Service, does the Service support that measure? If not, why not?

MR. MURPHY: We believe our ability to retain Revenue Officers might be enhanced by extending the twenty year retirement benefit to them. However, attrition is a complex problem. We are now taking an in-depth look at the causes of attrition so that we may suggest a comprehensive, long-term solution.

SEN. MIKULSKI: In a document entitled "Early Retirement for Revenue Officers" by the Assistant Commissioner (Collection), IRS, dated September, 1987, the Service states:

(a) The Revenue Officer profession is more hazardous than any other profession in the Department of the Treasury.

(b) A study conducted at the direction of the IRS indicates that Revenue Officers face greater stress and suffer a greater threat to mental and physical health than do policemen, air traffic

controllers and train dispatchers, among others.

(c) A 20 year retirement option would produce a major benefit to the Service - a young and vigorous work force to accomplish the Revenue Officer mission.

(d) The Service will save $2 million annually in formal classroom training costs.

(e) the 20 year retirement benefit will reduce turnover and produce an increase in total revenues collected by as much as $105 million annually.

Are each of the statements listed above still valid? If not, please explain in detail. Please also provide updated information on statements (a), (d) and (e).

MR. MURPHY: We are currently reviewing and updating the data in that report in collaboration with the Office of Personnel Management and the Office of Management and Budget. I would be happy to share the updated report with you when it is completed.

SEN. MIKULSKI: I assume new Revenue Officers require considerable on-the-job training (something beyond formal classroom training). Has the Service attempted to cost-out such training in terms of lost productivity by new employees and more experienced Revenue Officers who must train them? If so, please provide such information. If not, explain why it has not been done.

MR. MURPHY: Revenue Officers receive a combination of classroom and on-the-job training during their first year. Formal classroom training lasts for nine weeks and is divided into three separate sessions. The remainder of the year is spent under the guidance of an on-the-job instructor. On-the-job instructors routinely "coach" more than one trainee at any given time and their inventory of cases is reduced according to the number of trainees assigned to them.

We estimate lost productivity due to training when evaluating the effectiveness of hiring additional staff. The productivity of newly hired staff is about half that of an experienced

employee. This is based on average production of over $500,000 per staff year from experienced staff. We recently revised our training programs and delivery systems and we are reviewing data about Revenue Officer training so that we can better quantify the direct training costs.

SEN. MIKULSKI: I believe the turnover rate among Revenue Officers has climbed to almost 20%. Could you provide me with an accurate figure? Please also provide the figures for the preceding 5 years, and any projections of future retention and recruitment problems.

MR. MURPHY: During Fiscal Year 1988, we experienced attrition of 20.9% from the Revenue Officer occupation. This includes retirements, resignations and movement to other occupations within the Service.

The attrition rate varies significantly by geographic area with some areas experiencing attrition of over 25% last year. The rates for the last five years are shown below.

YEAR	ATTRITION RATE
FY 88	20.9%
FY 87	19.0%
FY 86	17.6%
FY 85	17.7%
FY 84	17.0%

Attracting and retaining quality employees will continue to be a matter of serious concern to the Service. In recent years, we have undertaken a number of initiatives to address the issues of recruitment and retention. We will continue these efforts as well as look for new solutions to these problems.

SEN. MIKULSKI: What is the median number of years of experience among Revenue Officers?

MR. MURPHY: The median experience level among Revenue Officers is five years.

SEN. MIKULSKI: How many years of experience are necessary before a Revenue Officer is sufficiently experienced to handle the most difficult cases? What percentage of the current Revenue Officer work force is

capable of handling such cases? How does this compare to the present and projected workload?

MR. MURPHY: Revenue Officers are hired at the GS-5 and GS-7 levels. During the first year, they work under the guidance of a senior Revenue Officer. As the Revenue Officers gain more experience, they are given more independence until they progress to the full working level, GS-9. The most difficult work is assigned to GS-11 and GS-12 Revenue Officers. Revenue Officers who compete for these positions will usually have between two and four years experience.

Nationwide, the work force above the full working level is sufficient to handle the cases at those levels. We expect the proportion of higher graded cases to remain at their current levels.

QUESTIONS SUBMITTED BY SENATOR KERREY

Senator Kerrey: I've sat through a few hearings now. I heard Customs talk about interdiction of drug traffickers. I read about how the Bureau of Alcohol, Tobacco and Firearms work to get dealers who use firearms in illegal activities. And, now you are talking about drug enforcement and money laundering.

I assume you tend to trap a different type of person in the chain or catch the illegal activity at (a) different point. Is that true? Who do you focus on?

Mr. Murphy: Criminal Investigation identifies the recipients of financial transactions relative to the sale, movement or importation of drugs into and within the United States. Special emphasis is given in order to identify and document those individuals who attempt to conceal their drug related activities by the laundering of monies used in the procurement and sale of drugs. These Criminal Investigation activities have resulted in participation by special agents of the IRS in 70 percent of the joint efforts of the Organized Crime Drug Enforcement Task Force (OCDETF).

This involvement is second only to the Drug Enforcement Administration (DEA). The expertise of IRS special agents in their unique ability to trace and document these financial transactions has been recognized by these same participating agencies.

Senator Kerrey: How do you coordinate with Customs, ATF, DEA, etc.?

Mr. Murphy: The operations of the OCDETF agencies are coordinated through the respective task force coordinator of the thirteen task forces. For the most part they are coordinated through the offices of the United States Attorney and the Department of Justice by the grand jury process. The activities of the special agents of the IRS are those which relate to violations of United States Code Titles 18, 26 and 31 as they relate to violations of the Criminal Code, Internal Revenue Code and Currency and Banking Transactions, respectively.

REVENUE INITIATIVE COLLECTIONS

Sen. Kerrey: From time to time we hear that we can reduce the deficit some amount by achieving additional compliance with the tax laws. In last year's testimony, the IRS talked about $1.6 billion in additional collections to meet budget agreement requirements.

Did these additional collections materialize?

Mr. Murphy: The figure you are referring to was a net revenue figure from the Fiscal Year 1988 revenue initiatives based upon gross collections of $2.0 billion at an authorized cost of $400 million.

As a result of a recent GAO report (August, 1988) and an internal IRS study, the IRS is in the process of revising the revenue estimating methods associated with Examination district office yields. The major areas of focus are some assumptions noted in the GAO report and a growing trend on part of taxpayers to appeal and litigate the results of examinations. The increase in disputed cases tends to slow the collec-

tion of revenue from examinations, particularly in the first year, and the modelling assumptions lower, somewhat, the overall yield to be expected from examinations. We have not yet determined the full impact of these changes but expect our study to be completed by the end of this fiscal year.

If we use the revenue estimating methods on which the estimates in the FY 1988 budget were based, then the FY 1988 initiatives have resulted in the collection of $1.9 billion in additional revenue with an actual cost of approximately $300 million from all programs. This would result in net collections of $1.6 billion. This amount is less than the authorized figure due to a delay in hiring revenue agents.

ADDITIONAL COMPLIANCE

Sen. Kerrey: Could you achieve additional compliance in Fiscal Year 1990, and if so, what kinds of resources would you need?

Mr. Murphy: Compliance from both the direct and indirect effects of additional enforcement resources could be achieved but only to a small degree. We have already included in our budget request some revenue initiatives which would produce a return on investment of about six to one stemming from direct enforcement yield.

In conjunction with the Bipartisan budget negotiations, we also identified a few more initiatives which would result in a return of about 2.6 to one, also from direct enforcement yield. These initiatives, in the areas of our special compliance programs, FTD penalties, and appeals would result in an additional $150 million in revenue at a Fiscal Year 1990 cost of $58.5 million.

The indirect compliance effects of additional resources are hard to quantify but undoubtedly exist.

DIMINISHING REVENUE RETURNS

Sen. Kerrey: Do you have any idea when we might reach a point of diminishing returns - when additional resources might not lead to additional collections?

Mr. Murphy: The revenue initiatives included in the IRS' Fiscal Year 1990 budget would result in initial collections on the order of 5.7 to 1.

In recent years, IRS' operating costs have increased while the addition of new revenue initiatives has pushed us further along the curve of marginal return on investment. As a result, any new revenue initiatives would not produce the returns of a few years ago. For the time being, we are not in a position to estimate, with any precision, where return on investment would be equal. Further complicating the issue are recent tax law changes. The effects of these changes have not yet been fully felt or studied.

We are currently studying our Examination district office revenue estimating techniques. This study should help us to better estimate when we would reach a point of diminishing return. This study is expected to be completed by the end of this fiscal year.

Sen. Kerrey: The Tax Reform Act of 1986 removed many individuals from the tax rolls, yet the number of returns has increased. I assume the volume would have been even greater had it not been for the Act. Is that true?

Mr. Murphy: No. The latest available data indicate that without tax reform, an estimated 104.4 million individual income tax returns would have been filed in CY 1988. In fact, 107.0 million were filed -- an increase of 2.6 million returns filed because of TRA.

This net TRA effect was the result of two main factors. First, there was an increase of 3.8 million dependents who filed for the first time due to the repeal of their personal exemption under TRA. Second, 1.2 million low income taxpayers actually dropped off the filing rolls because of tax reform and changed filing requirements related to increased standard deduction and personal exemption amounts. These effects are summarized in the following table.

Estimated Effects of TRA on Individual Returns Filed in CY 1988

Total CY 87 individual returns filed	103.3	mil.
Plus normal growth in CY 1988	+ 1.1	
Equals CY 1988 filings without TRA	104.4	
Plus CY 1988 new dependent filers from TRA	+ 3.8	
Less CY 88 TRA drop in low income filers	- 1.2	
Total CY 88 individual returns filed	107.0	mil.

Simplified Tax Returns

Senator Kerrey: The Tax Reform Act of 1986 was supposed to simplify tax returns for many Americans. Have large numbers of persons been able to file simplified returns?

Mr: Murphy: As a result of the Tax Reform Act, nearly 9 million people have been able to file simpler returns.

We estimate that nearly 1.5 million fewer people will file Form 1040 in 1989 and will use the simpler Form 1040A or 1040EZ as a result of Tax Reform. This is based on a comparison of the percentage of Form 1040 estimated for 1989 and received in 1987, the last year we processed pre-Tax Reform returns. Much of this expected shift has already occurred. Through March 17, 1989, 50.6 percent of returns received were Form 1040, compared to 52.9% for the same period in 1987. This represents a decrease of 1.1 million Form 1040 out of the 48.4 million received to date.

Some taxpayers who continue to use Form 1040 can also file simpler returns primarily because the increased standard deduction under Tax Reform relieves them of the burden of computing itemized deductions. In 1988 51.1 percent of timely filed Forms 1040 had itemized deductions, compared to 60.1 percent in 1987. This represents a decrease of 5.5 million returns claiming itemized deductions. The percentage of returns with itemized deductions is continuing to decrease.

Through March 17, 1989 1.7 million fewer Forms 1040 had itemized deductions than they would have had at the 1988 rate.

In summary, we estimate that 1.5. million more people will file Form 1040A or 1040EZ and that at least 7.2 million more people have used the standard deduction as a result of Tax Reform.

IRS: ELECTRONIC FILING SYSTEMS

Sen. Kerrey: You have been experiencing (sic) with electronic filings. What is the current status of this program? Does it tend to benefit businesses more than individuals?

Mr. Murphy: As of March 16, 1989, a total of 927,218 individual tax returns have been filed electronically. The cumulative accuracy rate for these returns is 97.0% and our postable rate is 99%! While our internal projections indicated that over two million returns would be filed electronically this filing season, it now appears unlikely that we will receive that many returns.

Electronic filing of individual tax returns will be available nationwide in 1990. Also in 1990, we hope to generate even faster refunds and be able to accept balance due returns at least on a test basis, through electronic filing.

Electronic filing of business returns was successfully tested at the Andover Service Center in the 1987 and 1988 filing seasons. In 1988, the volume of Forms 1065 and 1041 was 55,334 and 449,338 related Schedules K-1 were filed. Electronic /magnetic media filing of forms 1065, 1041, and 1120s will be available for the 1989 processing year at the Andover Service Center. There is no geographic restriction on location of filers for these business returns.

There are many benefits of electronic filing to taxpayers, including acknowledgment of receipt of returns, receiving refunds earlier, and reduced errors. In our view, these advantages do not benefit businesses more than individuals.

Sen. Kerrey: There was some discussion last year regarding recruitment, especially with respect to legal and accounting fields. What about retention— what are your attrition rates in these areas?

Mr. Murphy: Attrition rates will vary according to how attrition is defined and the manner in which it is computed. The best description of attrition in the Internal Revenue Service is an explanation of what has occurred among new employees hired over the last three years (FY 86-88). In the accounting field, among new revenue agent hires, on average 8.6% separate in their first year and 13.2% in their second year of employment. Cumulatively, our recent experience indicates that 21.9% of our new revenue agent hires leave the Service in their first two years of employment. Similar attrition rates also apply to the legal field (attorneys, tax law specialists). Geographically, these percentages are uniformly higher in high cost-of-living areas such as North Atlantic (e.g. New York, Boston), Mid-Atlantic and Western Regions. Conversely, they are lower in those areas where our salary structure is more competitive and professional job opportunities are more limited. Our attrition data in the third year of employment and beyond becomes less precise in the accounting field, particularly as employees move between occupations within the Service. Clearly, attrition rates decline as length of Service increases.

ENFORCEMENT QUOTAS

SEN. KERREY: IRS has said in the past that its agents do not have quotas -- an amount they are supposed to raise from reviewing a certain number of claims. Is this still the policy?

MR. MURPHY: Internal Revenue Service policy on the use of quotas of this kind is clear.

Since 1959, our policy has prohibited the use of individual enforcement quotas. Additionally, Policy Statement P-1-20 explicitly prohibits the use of enforcement statistics in evaluating an employee's performance.

Furthermore, the recently enacted Taxpayer Bill of Rights codifies the provisions of P-1-20 and we are providing training to all managers to ensure that they understand and comply with the law. In accordance with the Taxpayer Bill of Rights, District Directors will be required to certify compliance with P-1-20.

Sen. Kerrey: Last year, IRS indicated it pursued a policy of examining "the most non-compliant returns". How do you define and identify "the most non-compliant returns.

Mr. Murphy: The discriminant function (DIF) system is the Service's primary method for selecting returns for examination. The DIF system is applied to all individual returns, all partnership returns and corporate returns having up to $10 million in assets. It identifies returns with the greatest potential for tax changes. DIF formulas arrange tax returns according to their probability of tax errors: returns are arranged in the order they should be considered for examination. These formulas are developed from a random sample of returns examined under our Taxpayer Compliance Measurement Program (TCMP). In developing DIF formulas from TCMP data, those return characteristics best able to predict tax returns with significant tax errors are identified and weights are derived for each characteristic. When tax returns are processed in the future, each characteristic will be given the appropriate weight by the computer. These weights will be summed for each tax

return, index scores will be computed and returns with the largest index scores will be identified as having the highest tax error potential.

While DIF has been effective in identifying returns with a high probability of tax change, the IRS also uses supplemental systems that identify returns for one specific issue or for special situations. The need is usually determined after the completion of a Compliance Study which will provide data on yields and costs. These studies are implemented based on knowledge of problem areas or special requests from Congress, other agencies or IRS management. Generally, a program is considered for inclusion as an active supplemental system when test results indicate a yield that is better than DIF or there is a need to improve compliance in a certain area of the law. The tax shelter program is an example of one of our supplemental systems.

TYPES OF DELINQUENCIES

SEN. KERREY: Delinquent taxes run into the billions. What are the principal types of delinquencies?

MR. MURPHY: Delinquent tax accounts are primarily composed of business and individual income taxes. We further categorize business delinquencies into trust fund and non-trust fund categories. Trust fund delinquencies result from the failure of businesses to pay over withheld taxes, primarily income tax and the employees' portion of Social Security taxes. Because these taxes are credited to the employees when they file their individual tax returns, we consider unpaid trust fund taxes to be our highest priority. In addition, businesses that do not comply with employment tax requirements gain an unfair advantage over compliant businesses.

Sen. Kerrey: Please provide a spending profile of your activities in Nebraska --

-- how many offices, what types, and where
-- how many employees at each
-- principal activities at each
-- service programs available, especially for the elderly
-- number of returns filed from the state last year
how many were individual returns
how many businesses

Mr. Murphy: We have an IRS District Office and a District Counsel Office in Omaha, Nebraska. We have approximately 400 employees in our Nebraska sites. The principal activities are Examination (of tax returns), Collection (of unpaid tax accounts), Criminal Investigation, Appeals, Internal Security, Resources Management, Computer Services and Taxpayer Service. The service programs available include Volunteers in Income Tax Assistance, Understanding Taxes (acquainting students with our income tax system), and Tax Counseling for the Elderly (taxpayer over age 60). Last year we received 692,625 individual income tax returns, 253,132 individual estimated tax returns (Form 1040ES), 20,782 fiduciary returns, 7,079 fiduciary estimated tax returns, 13,658 partnership returns, 27,579 corporation income tax returns, 373 estate tax returns, and 986 gift tax returns for a total of 1,320,467 returns filed.

QUESTIONS SUBMITTED BY SENATOR BYRD

MARTINSBURG COMPUTING CENTER

SEN. BYRD: The Martinsburg, West Virginia Internal Revenue Service Computer Center is a valuable resource. The Fiscal Year 1990 budget request is $30.2 million and 701 positions, an increase over Fiscal Year 1989 appropriations to date of $1.3 million and 9 positions.

At last year's hearing, I posed a question about the long-range plans to expand this

facility and the significant milestone events leading to completion of that expansion. At that time, the answer given was that you had not finalized your long-range plans for the National Computer Center (NCC). Consequently, milestones had not been established for future expansion at NCC.

Your answer further stated that: "expansion of NCC will be affected by two studies which are underway as part of the Tax Systems Redesign (TSR). These studies will focus on two major areas of concern: 1) NCC staffing requirements; and, 2) computer hardware (mainframes, storage devices, etc.) and related facilities requirements. These studies should be completed in the next 12 to 18 months.

The Service is committed to fully utilizing NCC as a "corporate" site for tax data as part of the TSR. The modifications required to meet that role will depend upon the outcome of the aforementioned studies and the final architecture of TSR."

Please update your response from last year, including the results of the two studies, if available.

MR. MURPHY: We completed a procurement-sensitive study redefining the roles of our two Computing Centers (renamed the Martinsburg Computing Center [MCC] and the Detroit Computing Center [DCC]. The conclusions drawn were that the two Centers were to "mirror image" each other, providing workload shifting capabilities, disaster recovery backup and expanding processing power. In addition, staffing requirements were considered and we concluded that MCC will increase in size, and expand its role while remaining a cornerstone of our tax processing. We will be maintaining our current systems while redesigning and migrating to the new systems.

SEN. BYRD: What are the planning assumptions that you are using to determine the ultimate space requirements for the Martinsburg facility as it relates to the redesigned tax system?

MR. MURPHY: MCC's Facilities Management Branch, based on information provided by other IRS organizations, projects the need for a GSA

build-to-suit facility of approximately 146,200 square feet. The size of the building is based on the following requirements: Corporate Files on-Line (CFOL)/Disaster Recovery - 85,000 square feet; Information Returns Processing (document processing) - 40,000 square feet; Systems Acceptability Testing - 11,200 square feet; and Magnetic Media Reporting Program - 10,000 square feet.

SEN. BYRD: Also, what is the status of the two buildings that are currently under construction to house the National Training Center and the additional warehouse space and the significant milestone events leading to their completion and occupancy?

MR. MURPHY: The original contractual completion dates for both the National Training Site facility and warehouse facility are June, 1989. However, the contractor was granted a 31-day extension because of inclement weather for completing the buildings. Thus the new completion dates are July, 1989. After the buildings are completed and released to IRS by GSA, we will occupy the buildings immediately.

In addition to the above, plans are being developed to renovate space in the Center's main building to provide a child care facility. The GSA renovation schedule for the facility is for the design phase to begin April 1, 1989, start renovation January, 1990 and complete renovation July 1, 1990.

SEN. BYRD: I trust that I may rely on you to keep me fully informed on a timely basis on any new construction plans or developments, or any factors that may impact on the personnel or programs at the National Computer Center in Martinsburg. May I have your assurances on that?

MR. MURPHY: You have my assurances that we will keep you fully informed about any new developments in reference to building construction, staffing requirement changes or any other developments as they occur at the Martinsburg Computing Center.

QUESTIONS SUBMITTED BY SENATOR DOMENICI

IRS Initiatives

Senator Domenici: The Bush budget shows a similar increase in revenues due to an IRS initiative. However, OMB Director Darman has indicated that, except for a $56 million drug enforcement initiative, all IRS funding is in the nondefense, discretionary residual freeze category.

What would be the impact on revenues of freezing IRS spending in fiscal year 1990 at the fiscal year 1989 outlay level?

Mr. Murphy: The immediate impact on revenues of freezing the IRS spending in fiscal year 1990 at the fiscal year 1989 outlay level would be the loss of the $318 million increased revenue generated by our proposed revenue initiative. Failure to receive the requested increased funding for fiscal year 1990 would force us to reduce our overall workforce in order to absorb our mandatory cost increases. The workforce reduction would adversely affect our service to taxpayers as well as our capacity to enforce the tax laws. Some revenue loss would result from that part of the workforce reduction applied to revenue programs. However, every attempt would be made to minimize revenue loss by further scrutinizing all non-critical expenditures.

Senator Domenici: **The only explicit priority for IRS in President Bush's fiscal year 1990 budget submission is $56 million for a drug initiative. Was this $56 million IRS drug initiative included in the $289 million funding increase requested in the Reagan budget?**

Mr. Murphy: **No, this $56 million was not part of the $289 million funding increase requested in the Reagan fiscal year 1990 budget request, but is an amount that has been carried over from 89.**

Senator Domenici: **What are the specifics of this $56 million drug initiative?**

Are there any revenue impacts associated with enactment of this IRS drug initiative?

If so, what is the estimated revenue impact in fiscal year 1990?

Mr. Murphy: The IRS does not have a drug initiative for fiscal year 1990. The $56 million amount referred to by Director Darman is the remainder of the IRS budget related to drug enforcement after the transfer of $14 million to the Justice Department as mandated by the Anti-Drug Abuse Act of 1988. IRS drug enforcement money is used for Investigations ($35.1 million), Prosecution ($15.2 million), and Regulatory/Compliance ($5.2 million).

The drug programs have no direct revenue impact.

Adjustment Between Appropriations, FY 1989

Senator Domenici: The Fiscal Year 1989 Appropriations Act provides the IRS statutory authority to transfer up to 4 percent of any appropriation provided to it for fiscal year 1989 to any other IRS account. The Senate subcommittee report indicates that it views this 4 percent statutory transfer authority given to the IRS as appropriate, unless such transfer would have the net effect of reducing the revenue yield below that which would have occurred had such transfer not been made. The appendix accompanying the fiscal year 1990 Reagan budget indicates that the IRS exercised this transfer authority. Specifically, IRS transferred $377,000 to the "Salaries and Expenses" account and $10,343,000 to the "Exams and Appeals" account from the "Processing Tax Returns" account (-$9,472,000) and the "Investigation, Collection, and Taxpayer Service" account (-$1,248,000).

The Reagan budget also submits to the Congress for its approval IRS supplemental funding transfer requests. Specifically, a $73,983,000 transfer from the "Exams

and Appeals" account to the "Processing Tax Returns" account (+$32,229,000) and the "Investigation, Collection and Taxpayer Service" account (+$41,754,000) is requested.

I note that these requested supplemental transfers reverse the previous transfer actions of the IRS. Specifically, where the IRS reduced the appropriation for the "Processing Tax Returns" account by $9,472,000, it is now requesting the Congress to approve a transfer of $32,229,000 back into that account. Where the IRS added $10,343,000 to the "Exams and Appeals" account, the Congress is now being asked to approve a transfer of $73,983,000 from that account. Appropriation provided for "Investigation, Collection, and Taxpayer Service" by $1,248,000, the Congress is being asked to restore $41,754,000 to that account. This makes absolutely no sense to me.

What was the basis for the transfer of funds between IRS accounts accomplished administratively by the IRS under its statutory transfer authority? Did these transfers have any impact on revenues?

What is the basis for the supplemental transfer requests submitted to the Congress in the Fiscal Year 1990 budget? If approved, would these transfers of funds between IRS accounts cause a reduction in revenues?

The requested supplemental transfer amounts are within the 4 percent statutory transfer authority limitation. Why is the Congress being asked to provide the statutory authority for these transfers?

Why isn't the IRS using its statutory transfer authority to transfer these funds between accounts as it did previously?

Which IRS activities will be adversely affected by these transfers?

Mr. Murphy: There are two transfers which IRS is proposing for Fiscal Year 1989. They are kept separate because they have separate objectives. The first is a

proposed transfer of funds, under the four percent transfer authority, to absorb increased pay and benefit costs. It involves shifting funds, as you note, among our four operating accounts to cover the 4.1 percent pay raise which went into effect in January. In order to minimize any adverse impact on agency operations -- processing of tax refunds, assisting taxpayers and enforcing tax laws -- IRS cut back disproportionally spending for supplies, office equipment, alteration to office space and facilities, telecommunications.

This was done to preserve, to the extent possible labor intensive programs and the collection of tax revenues. To accommodate this action, adjustments are needed by account since reductions to funds for support-type expenditures are different, to some extent, from the increased labor cost of the January, 1989 pay raise.

The second transfer involves a permanent adjustment among three of our four operating accounts. In FY 1988, the House and Senate Conference Committees directed us to reallocate, to the extent possible, excess employee compensation funds to taxpayer service. During the year, we did just that. Last March 21, Commissioner Gibbs testified that we were adding additional resources to taxpayer service. To accommodate this redirection, we moved excess funds out of our Examination and Appeals account to Taxpayer Service. We also moved some resources into Tax Processing from Examination.

This transfer was endorsed by the Administration when it submitted former President Reagan's budget in FY 1989 and again as an adjustment for the current year with the FY 1990 budget. We do not presume automatic Congressional approval. We require this adjustment to continue the redirection which the Committees on Appropriations recommended and which make for sound tax administration.

This entire transfer was intended to address programmatic shortfalls of serious concern to the Congress, namely timely and accurate processing

of tax returns and adequacy of the Taxpayer Service Program. Therefore, the proposed supplemental appropriation transfers having a "zero sum" effect, are requested simply to maintain FY 1988 resource levels for processing and service.

There is no revenue impact.

SECTION 89 OF THE INTERNAL REVENUE CODE

SEN. DOMENICI: Commissioner, I am sure you are familiar with section 89 dealing with employee benefits programs. Can you tell me what types of benefit plans are covered by these new anti-discrimination rules?

MR. MURPHY: Section 89 requires that employee benefits programs satisfy two basic sets of rules. The groups of plans covered by each of the two sets of rules are different. The first set of rules are the nondiscrimination rules of section 89(a) and they apply to accident and health benefits plans and group term life insurance plans. Employers can also elect to apply these rules to dependent care assistance plans. In addition, the rules may be applicable to group legal services plans and educational assistance programs if sections 120 and 127, providing for such plans, are extended beyond their 1988 expiration date.

The second set of rules in section 89 are the plan qualification rules of section 89(k). These rules are applicable to all the plans covered by the nondiscrimination rules and are also applicable to qualified tuition reduction programs, cafeteria plans, voluntary employee benefit associations (VEBAs), and fringe benefits that are either no-additional-cost services, qualified employee discounts, or employer-operated eating facilities.

Plans maintained by churches and church controlled organizations are exempt from section 89. Also exempt are plans maintained by the Federal Government for the military.

SEN. DOMENICI: What were the objectives of section 89?

MR. MURPHY: Section 89 was intended to expand the provision of certain employee benefits, particularly health benefits, to employees and to limit the expenditure of tax revenues that results from giving tax-favored treatment to health-benefits coverage provided primarily to highly paid employees and not to rank and file employees.

SEN.DOMENICI: Upwards of 37 million Americans have no health insurance. Aren't you concerned that these cumbersome rules will only encourage employers to drop their plans?

MR. MURPHY: One of the purposes of section 89 was to encourage the provision of health-benefits to many employees who have inadequate coverage or none at all. In general, the section is effective for plan years beginning in 1989. Many employers are just beginning to review the rules and go over their existing employee benefits programs to determine what, if any, changes they need to make. It is really too early to tell what the outcome will be. Some of the concerns being expressed now are similar to concerns with respect to the potential elimination of pension plans after the enactment of the Employee Retirement Income Security Act of 1974 (ERISA). While there were some problems during the early ERISA years, in general I think we have all seen that pension plans are still being provided to employees. In the present case I think we will have to allow some time before we can draw any conclusions.

I would also note that section 89 had two objectives and the second or tax-equity objective of denying tax-favored status to employee benefit plans covering only or primarily highly paid employees to the relative exclusion of rank and file employees would be satisfied if such plans provided benefits only on an after-tax basis. It is important to keep in mind that section 89 does not limit the employer's ability to provide whatever employee welfare benefits it chooses. It merely limits the extent to which discriminatory benefits for highly compensated employees are tax-favored.

SEN. DOMENICI: I have heard from some of the employers in my state who have said that compliance with this law is so time-consuming and expensive that they are more likely to drop their benefit plans rather than comply. What type of information is required to run the tests to make sure an employer's plans are in compliance.

MR. MURPHY: The nondiscrimination tests of section 89(a) are essentially mechanical mathematical tests. In order to run them an employer generally needs to know what types of health and other employee welfare benefits it provides to employees, who is eligible for such benefits, and who actually benefits from them. In addition, an employer needs to know certain basic information about its work force such as the number of employees whether they are highly or non-highly compensated, and whether they are full time or part time.

SEN. DOMENICI: Some firms are offering "section 89 testing" for a fee of $800 plus $10 per employee. Other estimates range from several thousands of dollars for a small firm. Do you have any data on the actual cost to an average business of determining whether a particular plan qualifies.

MR. MURPHY: The IRS does not have any figures estimating the cost of compliance or possible tax deductible expenditures by individual companies at the present time. However, in an effort to better assess the effect of the statute and proposed regulations, the preamble to the regulations requests comments on the expected effect on costs to employers and health providers resulting from section 89 requirements.

SEN. DOMENICI: I have seen the Treasury Regulations which were issued on March 2, 1989. While they offer transitional compliance relief and a good faith compliance standard, they did not offer much in the way of guidance in complying with the law. Can we expect more from treasury in the way of assistance in that regard?

MR. MURPHY: The Treasury Regulations issued on March 2, 1989, focused on the most pressing problems facing the largest number of employers and provided

substantial guidance in those areas. Additional regulatory guidance will be issued as soon as possible on other areas affected by section 89. The existing regulations also contain a number of specific delegations of authority that will permit the Service to publish further guidance in revenue rulings, notices and other such documents. We intend to use this authority both to provide general guidance as early as possible and to respond quickly to employers' concerns. In addition, the Service has published a phone number for taxpayer inquiries. We have several of our attorneys devoting much of their time to answering these calls. We are also making our attorneys available, to the extent possible, at educational seminars on section 89. Finally, we are actively considering any other ways in which we can provide guidance on the administrative questions raised by section 89.

SEN. DOMENICI: Two bills have been introduced that would delay the effective date of the law for two years, and two bills have been introduced that would repeal the law altogether. Would you support these efforts?

MR. MURPHY: These are policy questions on which I feel I should defer to Secretary Brady.

SEN. DOMENICI: I intend to introduce a bill next week to exempt employers with fewer than 20 employees, delay the effective date of the law for two years, and change the part-time standard in the existing law from 17 and a half hours to 25 hours. Would Treasury support this type of effort?

MR. MURPHY: Again, I feel that I should defer to Treasury in responding to this question.

"SALARIES AND EXPENSES" REQUEST

Senator Domenici: Of the 115 average positions and $8.4 million requested in Fiscal Year 1990 for the Executive Direction Activity under the "Salaries and Expenses" Account, what number of positions and level of funding is requested for each of the following: (1) The Equal

Employment Opportunity Program, (2) The Public Affairs Office, (3) The Taxpayer Ombudsman, and (4) The Legislative Liaison Program? How do the number of positions and level of funding for each of these compare with that provided in Fiscal Year 1988?

Mr. Murphy: In the FY 1990 budget submission, the IRS is requesting 15 average positions in Equal Employment Opportunity, 21 average positions in Public Affairs, 15 average positions in Taxpayer Ombudsman and 25 average positions in Legislative Liaison. These resources represent the same level as contained in FY 1988. Funding levels have been adjusted to reflect mandatory costs primarily for employee pay and benefits.

Sen. Domenici: What level of funding was spent on official reception and representation expenses in fiscal year 1988? What is the estimate for fiscal year 1989?

Mr. Murphy: In fiscal year 1988 $17,218 was spent on official reception and representation expenses. We estimate spending $25,000 in fiscal year 1989.

SENATOR DOMENICI: Of the funds provided for research without fiscal year limitation in each of Fiscal Years 1987, 1988, and 1989, what amounts were expended in each year and what funds currently remain unobligated. Please be specific as to the research projects on which these funds were expended.

MR. MURPHY: For Fiscal Years 1987, 1988, and 1989, there were no funds provided for research without fiscal year limitation, although within each year's funding of $4 million, authority was provided for converting up to $0.5 million to no-year status, in the event procurement or other delays prevent obligation in the current year.

In Fiscal Year 1987, no funds were converted to no-year status. In Fiscal Year 1988, $0.5 million was converted to no-year status, and all of those funds remain unobligated. In Fiscal Year 1989, it is too early to tell if

conversion of any funds to no-year status will be necessary.

SENATOR DOMENICI: The Fiscal Year 1990 request includes $2 million for research, four times higher than the limitation placed on research expenditures for Fiscal Year 1989. What is the basis for this substantial increase? What level of funding is being provided for research in Fiscal Year 1989? What research projects are being funded?

MR. MURPHY: For Fiscal Years 1987, 1988, and 1989, $4 million was approved for research. Within each year's $4 million, authority was provided for converting up to $0.5 million to no-year status, in the event procurement or other delays prevent obligation in the current year. The $2 million increase requested for Fiscal Year 1990 would not increase the authority for converting funds to no-year, and would be used for:

-- The development of additional artificial intelligence expert systems to improve the productivity of Service operations, such as:

   -- An Automated Issue Identification System to automate the current manual process of identifying issues on Form 1040 individual income tax returns with good audit potential--when operational, this system is expected to generate an additional $70 million in audit assessments annually;

   -- A LINK Analysis System, to identify items from large data bases which relate to a specific person, draw a link diagram illustrating the relationship between the individual and the items, and determine whether such transactions have a high potential for identifying criminal activities; and,

   -- A Correspondex Expert System Interface to assist users in quickly compiling proper paragraphs or letters in response to specific taxpayer inquiries, which will greatly increase the quality of our correspondence and

will yield annual savings of approximately 200 million keystrokes.

-- Expanded survey support for Taxpayer Service and other functions, to identify customer needs and assist the functions in the implementation of quality improvements.

The $4 million approved for Fiscal Year 1989 supports such projects as:

-- The development and testing of state-of-the-art technologies, including expanded electronic filing systems for machine-readable tax returns and electronic payment of taxes;

-- Surveys for Taxpayer Service and other functions to measure customer satisfaction; and,

-- The testing of forms and instructions for reader comprehension.

TAX LITIGATION

SEN. DOMENICI: The U.S. Tax Court indicates that the amount of deficiencies redetermined by the court in all cases closed during fiscal year 1988 was $1.3 billion, reflecting a government recovery rate of 19 percent of the total IRS determined amount.

How much of the $1.3 billion in deficiencies redetermined by tax court in fiscal year 1988 did the IRS actually collect?

MR. MURPHY: Our statistics show a recovery rate for Fiscal year 1988 of 31%. This was composed of:

Cases
48,639

Tax + Penalties (in 000's)
$4,226,691

Redetermined
$1,330,756

Rate
31%

These are all Tax Court cases (ie. docket numbers) closed that year by settlement, trial, and dismissal.

SEN. DOMENICI: How many cases did the IRS settle out of court in fiscal year 1988? What was the total IRS determined amount of the taxes owned in these cases? What was the total settlement amount for these cases; what was the government recovery rate? How much of this total redetermined amount did the IRS actually collect? Please provide us with this same information for each of fiscal years 1985, 1986, and 1987.

MR. MURPHY: Tax Court cases closed by settlement:

FY 88

Cases
41,726

Tax + Penalties (in 000's)
$3,746,112

Redetermined
$1,075,921

Rate
29%

FY 87

Cases
38,688

Tax + Penalties (in 000's)
$2,691,917

Redetermined
$853,789

Rate
32%

FY 86

Cases
31,014

Tax + Penalties (in 000's)
$2,794,069

Redetermined
$600,014

Rate
21%

FY 85*

Cases
28,575

Tax + Penalties (in 000's)
$1,951,602

Redetermined
$387,745

Rate
20%

* Due to a computer system change in this year, some figures may not be completely accurate for the year.

PRIOR-YEAR REVENUE INITIATIVES

Sen. Domenici: The IRS budget submission indicates that the fiscal year 1990 IRS budget continues to support prior-year revenue enforcement initiatives, as well as augment efforts to reduce the backlog of delinquent accounts.

What additional revenues have been collected to date from prior-year revenue enforcement initiatives? How is this calculated?

Mr. Murphy: As a result of a recent GAO report (August, 1988) and an internal IRS study, the IRS is in the process of revising the revenue estimating methods associated with Examination district office yields. The major areas of focus are some assumptions noted in the GAO report and a growing trend on part of taxpayers to appeal and litigate the results of examinations. The increase in disputed cases tends to slow the collection of revenue from examinations, particularly in the first year, and the modelling assumptions lower, somewhat, the overall yield to be expected from examinations. We have not yet determined the full impact of these changes but expect our study to be completed by the end of this fiscal year.

If we use the revenue estimating methods on which the estimates in the FY 1987 and FY 1988 budgets were based, then the FY 1987 and FY 1988 revenue initiatives have resulted in the collection of $6.2 billion in additional revenue over the past two years from all programs. Of this amount, $4.3 billion is attributable to the FY 1987 set of initiatives and $1.9 billion to the FY 1988 set of initiatives.

These estimates are calculated on the basis of historical experience using various models and techniques to develop marginal estimates. These methods vary according to the function and type of work involved.

Sen. Domenici: What level of funding is included in your Fiscal Year 1990 request to support these prior-year revenue enforcement initiatives?

Mr. Murphy: The Fiscal Year 1987 and 1988 revenue initiatives are continuing and are included in the current services level of our Fiscal Year 1990 budget request. The total for these initiatives in Fiscal Year 1990 is 13,350 average positions and $529.7 mil- Of this total, 7,990 average positions and $316.1 million are for the Fiscal Year 1988 initiatives while 5,360 average positions and $213.6 million are for the Fiscal Year 1987 initiatives. This is somewhat lower than our original request as the Examination AES project is not now counted as a revenue initiative.

PRIOR-YEAR REVENUE ENFORCEMENT INITIATIVES

SEN. DOMENICI: Please give us the number of delinquent tax accounts and total amount of taxes owed at the beginning of each of the last five fiscal years and the reduction in that backlog and the total amount collected by the end of each of these fiscal years.

MR. MURPHY: The total accounts receivable is composed of various delinquency categories, including current accounts receivable and delinquent accounts that are (1) in notice status, (2) being actively worked, (3) classified as currently not collectible, (4) being paid through installment agreements, and (5) not being

actively worked because of dollar tolerance levels and other reasons.

The table below shows a summary of Taxpayer Delinquent Account (TDA) activity for the last five years. TDAs are the accounts that receive our most intense effort. They are assigned to the Collection function, usually after a taxpayer has received up to five notices from a service center. The total number and value of Taxpayer Delinquent Accounts at the beginning of each fiscal year has grown because, although collections have increased, the number of new cases assigned to be collected has increased faster than the number of cases disposed. We are also focusing our efforts on identifying those accounts with the greatest potential yield and allowing lower valued cases to remain in inventory where they are monitored by our computer system.

[TABLE FOLLOWS]

Taxpayer Delinquent Accounts
(Numbers in millions, amounts in billions)

	FY 88	FY 87	FY 86	FY 85	FY 84
Beginning Inventory	2.3	1.9	1.7	1.8	1.9
Amount of Inventory	$14.3	$11.9	$9.1	$8.0	$7.3
Number Issued	3.1	3.1	2.7	2.3	3.1
Amount Issued	$22.4	$23.5	$19.0	$12.9	$12.9
Number Disposed	2.6	2.6	2.4	2.5	3.1
Amount Collected	$6.4	$6.4	$4.9	$4.6	$5.0
Ending Inventory	2.8	2.3	1.9	1.7	1 8
Amount of Inventory	$17.5	$14.3	$11.9	$9.1	$7.3

OPERATION ALLIANCE

Senator Domenici: WHAT IS THE LEVEL OF IRS PARTICIPATION IN OPERATION ALLIANCE IN FISCAL YEAR 1989? WHAT DO YOU ANTICIPATE IT WILL BE IN FISCAL YEAR 1990?

Mr. Murphy: Criminal Investigation will apply 111 staff years for Operation Alliance in fiscal years 1989 and 1990.

IRS FLETC TRAINING

THE FISCAL YEAR 1990 REQUEST INCLUDES $3.0 MILLION FOR FEDERAL LAW ENFORCEMENT CENTER (FLETC) TRAINING OF ALL NEW IRS SPECIAL AGENTS.

Senator Domenici: HOW MANY NEW SPECIAL AGENTS DOES IRS PROJECT WILL BE TRAINED AT FLETC IN FISCAL YEAR 1990? HOW DOES THIS COMPARE WITH THE NUMBER TRAINED AT FLETC IN EACH OF FISCAL YEAR 1988 AND 1989?

Mr. Murphy: Presently we are estimating that 420 special agents will be trained in each of the three basic training courses in fiscal year 1990. There were 309 special agents trained in fiscal year 1988 in these same basic training courses. It is estimated that 230 special agents will be trained in fiscal year 1989.

Senator Domenici: OF THE $3.0 MILLION REQUESTED FOR FISCAL YEAR 1990, IRS INDICATES THAT $1.5 MILLION IS FOR TRAVEL EXPENSES AND $1.5 MILLION IS FOR SERVICES PROVIDED TO NEW SPECIAL AGENTS AT FLETC. WHAT SPECIFICALLY ARE THESE SERVICES?

Mr. Murphy: The services pertain to expenses directly related to CI training programs as follows: reimbursement to FLETC for food and housing costs of students, student transportation, supplies, office equipment, textbooks, health services, video production, computer equipment and roleplayers.

U.S. POSTAL SERVICE

STATEMENT OF ANTHONY M. FRANK, POSTMASTER GENERAL

ACCOMPANIED BY:

MICHAEL COUGHLIN, DEPUTY POSTMASTER GENERAL
COMER COPPIE, CHIEF FINANCIAL OFFICER
LOUIS COX, GENERAL COUNSEL

INTRODUCTION OF WITNESS

Senator DECONCINI. Next, we are going to hear from the U.S. Postal Service. We are honored to have the Postmaster General of the United States, Mr. Anthony Frank, testifying this morning. Welcome, Mr. Frank. We are pleased to have you here again, and we congratulate you on the completion of your first year in a real easy job.

We welcome hearing from you. If you would introduce the people you have with you and summarize your statement, you may proceed.

Mr. FRANK. Thank you very much, Mr. Chairman, Senator Kerrey. With me are our Deputy Postmaster General, Michael Coughlin; our chief financial officer, Mr. Comer Coppie; and our general counsel, Mr. Louis Cox.

PREPARED STATEMENT

I know how valuable your time is. We have submitted a statement and I propose, unless you have a different suggestion, not to read it or summarize it, but just to take your questions.

Senator DECONCINI. That will be fine. Thank you very much.

[The statement follows:]

STATEMENT OF ANTHONY M. FRANK

Mr. Chairman, it is a pleasure to be here today to discuss the Postal Service's fiscal year 1990 appropriations request for fiscal year 1990.

The January budget submission recommended that the Postal Service receive a net appropriation of $15,766,000 for fiscal year 1990. This is a reduction of $420,651,000 from the amount appropriated for fiscal year 1989.

PUBLIC SERVICE APPROPRIATION

The Postal Service has not received a public service appropriation since fiscal year 1982 and is not requesting one for this year.

REVENUE FORGONE APPROPRIATION

The budget recommends a revenue forgone appropriation of $23,696,000. This amount covers only free mail for the blind and visually handicapped and free overseas voter mail.

The budget submission indicated that the Administration would resubmit a previous legislative proposal to eliminate the revenue forgone appropriation for all preferred rate categories except free mail for the blind and overseas voter mail. Some categories which are viewed as abuses of the rate subsidy program would be elimi-

nated. Most of the other preferred rate categories would continue to receive lower rates, but the postal overhead costs covered until now by the appropriations would instead be factored into higher rates for other mailers in the next rate case if this legislation is adopted.

Under current requirements, the appropriation needed to maintain all free and reduced-rate mail at the authorized level in fiscal year 1990 is $459,755,000. This amount covers the estimated revenue loss from charging the lower rates. Under current law, if Congress decides not to provide the full appropriation, the Postal Service adjusts the rates as necessary to make up the shortfall.

RECONCILIATION ADJUSTMENT

The laws require each year's appropriation request to include an amount to reconcile the appropriation for prior years based on final audited mail volumes. The fiscal year 1987 appropriation followed preliminary estimates that an amount of $591,024,000 would be required for free and reduced-rate mail. Audited mail volumes now available for that year indicate that $546,152,000 was the figure sufficient to fully reimburse the Postal Service for the services provided. The excess of $44,872,000 is proposed for return to the Treasury in the budget request. Coupling the return of the $44,872,000 overpayment with the budget's requested fiscal year 1990 appropriation of $23,696,000 produces a net payment to the Government under the revenue forgone category of $21,176,000.

TRANSITIONAL APPROPRIATION

The budget submission also proposes $36,942,000 for fiscal year 1990 for transfer to the Department of Labor. This request covers workers' compensation payments for former Post Office Department employees disabled by injuries suffered before postal reorganization. While we pay the worker's compensation costs for our own employees, by law the United States remains responsible for these Post Office Department injuries and the Postal Service is not liable for them.

Mr. Chairman, I would be pleased to respond to any questions.

ERROR IN POSTAL SERVICE BUDGET

Senator DECONCINI. Senator Domenici.

Senator DOMENICI. I believe those people who are here representing the Postal Service ought to know that in the Bush budget there is a very, very serious error.

The budget of the Postal Service was cut in the last 2 years as part of the budget summit agreement. It is included in the residual freeze category in the Bush budget, which means that $2.1 billion in outlays that would occur under current law are not reflected.

I, for one, have called it to their attention, and I believe there is a growing unanimity that we can't do that if we want the Post Office to continue in an orderly way to build the facilities and operate as it has been planning for.

While that is not technically within the jurisdiction of this subcommittee, clearly it is a terribly bothersome thing to the Postal Service to have that hanging over their head after the rather arbitrary cut that we imposed last year and the year before.

I will submit a number of questions for you to submit to them in writing. Thank you, Mr. Chairman.

Senator DECONCINI. Thank you, Senator Domenici; we will submit all of your questions at the end of the hearing.

REVENUE FORGONE

I will just start right away.

The administration has once again proposed the elimination of the Postal Service subsidy for free and reduced-rate mailings,

except for the blind and for overseas voters. You estimate the revenue forgone to be $459.8 million in fiscal year 1990.

Assuming the Congress does not enact legislation which would amend existing law, this amount is $23.4 million over the fiscal year 1989 enacted level. What is your projected mail volume for these classes of mail which will receive the subsidy for 1990?

Mr. FRANK. Mr. Coppie will deal with the specifics.

Mr. COPPIE. Mr. Chairman, the total projected volume for the 1990 fiscal year for the Postal Service is 170,485,000,000 pieces of mail, and of that the preferred mail is 16,725,000,000. That breaks to a third-class nonprofit volume of 12,825,000,000 and a second-class nonprofit volume of 3,805,000,000.

We will supply a complete breakdown for the record.

Senator DECONCINI. Yes; would you give us that? I think I understand it.

[The information follows:]

Fiscal year 1990 estimated preferred mail volumes

Category	*Volume (millions)*
Second-class:	
In-county	1,554
Nonprofit	2,172
Classroom	79
Total	3,805
Third-class: nonprofit	12,825
Fourth-class: library rate	44
Free mail	51
Total preferred mail	16,725
Total nonpreferred mail	153,760
Total all mail	170,485

Senator DECONCINI. Well, since your volume estimates have been historically high, can we assume that the projected volume for fiscal year 1990, on which you based the subsidy, will also be on the high side?

Mr. COPPIE. I think not, Mr. Chairman. Obviously, our commitment is to provide an accurate forecast, and the best information we have at this time is that this will be the volume for the fiscal year 1990 period.

Senator DECONCINI. What would happen if the committee eliminated funding for 1990?

Mr. FRANK. We would raise the rates on approximately 9 percent of the mail.

Senator DECONCINI. Nine percent of the mail?

Mr. FRANK. Yes.

Senator DECONCINI. And what would the rate go up to, do you know?

Mr. FRANK. It would go up to the unsubsidized rate. If we are going to make up for the lack of reimbursement, it would go up to the——

Senator DECONCINI. Now, if the committee provides a portion of it, if we provide half of it, then the rate would go up by half as much? Does it work out the same way, depending pretty much on the dollar amount?

Mr. FRANK. Yes, sir.

Mr. COPPIE. We could give a complete breakdown on this on various alternatives, Mr. Chairman, but if you were to freeze at the 1989 level, the range would be from 1 to 2 percent in terms of an increase in the rate.

If you were to eliminate it entirely, we are talking about a much higher increase.

Senator DECONCINI. Well, I am not suggesting that. It is just that every year we go through this, and with the administration so opposed to it, it gets a little tougher every year to bang it back in there. And we sure would like to because we know the need, but we need to get a record of what the impact would be.

Mr. FRANK. Obviously, Mr. Chairman, we are not a social policy agency. The Congress has determined that these subsidies are in order and we are the instrument of reimbursement.

[The information follows:]

In the following chart, the first column provides the existing preferred rates. The second column illustrates the approximate preferred rates that would result if the appropriation were "frozen" at the $436 million level provided for in fiscal year 1989. The next two columns illustrate approximate preferred rates that could result if the $460 million request were reduced by $100 million and $200 million, respectively. These figures are not associated with any scenario being discussed at this time. Instead they are used to indicate the effects of various revenue forgone funding levels on preferred rates. Finally, preferred rates in the absence of any subsidy are illustrated in the last column. Percentage changes from the existing preferred rates are provided below the illustrative rates.

PRELIMINARY PREFERRED RATE LEVELS AND CHANGES FROM STEP 16 RATES, FISCAL YEAR 1990
ILLUSTRATIVE EXAMPLES [1]

Class of service	Appropriation amount				
	$460 million (step 16)	$438 million [2] (above step 16)	$360 million (above step 16)	$260 million (above step 16)	Unsubsidized rates (approx.)
Second-class publications:					
In county (cents)	5.6	5.7	5.9	6.3	7.3
Percent		2	5	12	30
Nonprofit (cents)	9.8	9.9	10.4	11.0	12.6
Percent		1	6	12	29
Classroom (cents)	14.5	14.6	15.3	16.1	18.4
Percent		1	5	11	27
Science of agriculture (cents)	13.4	13.4	13.5	13.6	13.8
Percent		[3] 0	1	1	3
Third-class nonprofit:					
Carrier route presort (cents)	5.3	5.4	5.9	6.5	8.3
Percent		2	11	23	57
Presort to five digits (cents)	7.6	7.7	8.2	8.8	10.6
Percent		1	8	16	39
Required presort (cents)	8.4	8.5	9.0	9.6	11.6
Percent		1	7	14	38
Fourth-class library rate (cents)	87.0	88.0	89.0	90.0	92.0
Percent		1	2	3	6

[1] See next page for illustrative examples.
[2] Appropriation of $436 million for fiscal year 1990 represents a freeze at the fiscal year 1989 appropriation level.
[3] Change is less than one-tenth of a percent.

DESCRIPTION OF ILLUSTRATIVE PREFERRED RATE EXAMPLES

SECOND-CLASS PUBLICATION

In county:
- Rural newspaper:
  - Frequency: Weekly
  - Weight: 4 ounces
  - Advertising: 50 percent
  - All delivered in county
  - Presorted to carrier route

Nonprofit:
- Veterans' magazine:
  - Frequency: Monthly
  - Weight: 4 ounces
  - Advertising: 20 percent
  - New York to Chicago
  - Presorted to five digits

Classroom:
- Classroom publications:
  - Frequency: Weekly
  - Weight: 12 ounces
  - Advertising: 15 percent
  - New York to Chicago
  - Thirty-two copies per piece

Science of agriculture:
- Rural agricultural newspaper:
  - Frequency: Weekly
  - Weight: 4 ounces
  - Advertising: 50 percent
  - Within 150 miles of entry
  - Presorted to five digits

THIRD-CLASS NONPROFIT

Fund-raising letter:
- Weight: ¾ ounce
- National distribution
- Carrier route present
- Presorted to five digits
- Required present

FOURTH-CLASS LIBRARY RATE

Book between libraries:
- Weight: 2 pounds
- New York to Chicago

ANNUITANT BENEFITS

Senator DECONCINI. Yes, I understand.

Let me ask you about postal employees' benefit adjustments. In addition to the revenue forgone proposal, the Reagan administration also proposes that the Postal Service assume payment for postal annuitants' cost-of-living adjustments and payments for annuitants' health benefits.

It would take legislation before any savings could be realized from these proposals. What additional payments would the Postal Service have to make to cover these costs if legislation were enacted requiring you to do so?

Mr. FRANK. Well, my role is to say the payments would be substantial, and Mr. Coppie's role is to be specific.

Mr. COPPIE. Well, Mr. Chairman, it is a complicated issue. I think the first and specific response to your question is annuitant health benefits would start at $792 million in fiscal year 1990 and annuitant COLA's would start at a $282 million requirement in fiscal year 1991. As you know, the administration has proposed that there be no annuitant COLA in 1990, so the COLA projection is based on fiscal year 1991, and going higher through 1994.

Annuitant COLA's start at $282 million and go up to close to $1 billion in the fourth year. Annuitant health benefit costs start at $792 million in fiscal year 1990 and go up to $1.3 billion by fiscal year 1994. Now, let me say that what they propose here is that the Postal Service assume the responsibility for all postal retirees, and that compromises the intent of the Postal Reorganization Act which assumed that the Postal Service would have no responsibility for the liabilities of the Post Office Department.

Now, we are committed, Mr. Chairman, to assume this responsibility, but the question then is how far do we assume our responsibility goes. We think our responsibility goes to prospective retirees from the Postal Service.

Senator DECONCINI. New retirees, you mean?

Mr. COPPIE. Yes, sir; that cost should be apportioned in relationship to Postal Service versus Post Office Department years of serv-

ice and should be amortized over a reasonable period of time. Our actuaries tell us that that reasonable period of time is 20 years.

Now, with that in mind, then, we are talking about $15 million in 1991, going up to something like $100 million in 1994 for annuitant COLA's.

Senator DECONCINI. And then leveling out at that point?

Mr. COPPIE. It would go up higher.

Senator DECONCINI. It would keep going up, every year?

Mr. COPPIE. It keeps going higher. The cost differentials here, obviously, are very substantial and there is a lot at stake for the Postal Service. And we would hope that we could work carefully with the Congress, work carefully with this committee, as this issue goes forward.

Senator DECONCINI. Well, Mr. Frank, do you support the Reagan budget proposal that the Postal Service assume the payments?

Mr. FRANK. No, sir; not in any way. The Postal Service is no longer the Post Office Department. When Post Office Department employees were transferred to the U.S. Postal Service in 1971, everybody realized that their past unfunded service liabilities were the responsibility of the U.S. Government. The Congress recognized that and stated as much.

Not only that, but we have many employees that have served in other portions of the Government or military, and while I am sure they are entitled to retirement, it really shouldn't be our ratepayers' obligation to pay for that period of time.

Senator DECONCINI. So your position is that, if anything, you would take on future, prospective retirees, but it would be quite devastating to you if you had to take on this $1 billion in the fourth year?

Mr. FRANK. We are already taking on substantial burden with the new Federal Employees Retirement System.

Senator DECONCINI. Yes.

Mr. FRANK. That cost us, I think, about $700 million more in fiscal year 1988 than the Civil Service Retirement System would have cost. We bear all of the cost of FERS, as we should, and the same with retirees since 1986 with respect to health benefits. So if we must bear the cost of annuitant COLA's we need to phase them in and make sure that it is just for years of service to the Postal Service.

GOVERNMENT MAIL RATE

Senator DECONCINI. The Reagan budget also proposes that a separate subclass of mail be established for the Federal Government, and estimates a savings of $346 million if it were implemented.

First, what is this Government rate all about? Can you explain that? And, second, what would be the effect of its implementation?

Mr. FRANK. Well, the theory behind the suggestion is that certain types of mail are easier to handle than others and cost less to process, and, of course, that is true. But in our opinion, there is nothing about Government mail that makes it any less costly to process over similarly prepared mail from other mailers.

So if we lower the rate on Government mail, we would have to consider lower rates on similarly prepared customer mail. The lost

revenue would have to be recovered from higher stamp increases. It is properly a matter for the Postal Rate Commission. It is a change in rates.

We just don't see that class of mail as being any more cost effective than comparable classes of mail.

Senator DECONCINI. Would you agree with the estimated savings of $346 million?

Mr. FRANK. We think that it may be over-stated by about one-third.

Senator DECONCINI. By about one-third?

Mr. FRANK. Yes; by about one-third.

Senator DECONCINI. That is a lot.

Mr. FRANK. But, again, that money has to come from somewhere, and the Postal Rate Commission holds 10-month hearings on new rate proposals and I am sure there would be months and months of testimony by people unwilling to bear the cost of that.

FACILITY PROGRAM

Senator DECONCINI. To turn to construction, how far behind is the Postal Service on its facility construction schedule?

Mr. FRANK. Well, it is lamentable, sir. We stopped every project that we could stop as of December 1987, some 750. Some will never be started again, never. The land is no longer available.

In every case, of course, when the project resumes, construction costs will be higher. And, of course, we have had higher costs operating the older facilities while waiting for the new ones. So everything has been delayed at least 2 years.

I was glad to hear Senator Domenici talking about the $823 million error, as he called it, in the budget because that would have been the third year in a row of cutbacks. We really have difficulty.

We just approved this week a new building for Brooklyn to replace a 96-year-old building at a cost of $174 million. It doesn't take very many projects to build up the cost.

Senator DECONCINI. Does that include what you will get from that building, from selling it, or whatever?

Mr. FRANK. It is an historic monument.

Senator DECONCINI. So you don't get anything.

Mr. FRANK. I have my doubts that there is any recovery there.

Senator DECONCINI. Would you provide the committee, and particularly me, with your 5-year plan for facility construction in Arizona?

Mr. FRANK. Of course.

[The information follows:]

NEW CONSTRUCTION-OWNED FIVE-YEAR PLAN FOR THE STATE OF ARIZONA

Fiscal year 1989 budget=$8,331,000:

—Glendale, Arrowhead Station—Construction award.
—Apache Junction, Main Post Office—Construction award.
—Lake Havasu City, Main Post Office—Construction award.

Fiscal year 1990 budget=$3,403,000:

—Gilbert, Main Post Office—Site purchase.
—Tempe, Downtown Station—Site purchase and Design award.
—Tucson, Desert Foothills Station—Design award.

Fiscal year 1991 budget=$6,083,000:

—Scottsdale, Fountain Hills Station—Site purchase and Design award.
—Tucson, Desert Northwest Station—Site purchase and Design award.
—Sierra Vista, Foothills Station—Site purchase and Design award.
—Window Rock, Main Post Office—Design award and Construction award.

Fiscal year 1992 budget=$17,346,000:

—Scottsdale, Fountain Hills Station—Construction award.
—Phoenix, South Central Station—Site purchase and Design award.
—Casa Grande, Main Post Office—Construction award.
—Chandler, Chaparral Station—Construction award.
—Tucson, Desert Northwest Station—Construction award.
—Sierra Vista, Foothills Station—Construction award.
—Tucson, Desert Foothills Station—Construction award.

Fiscal year 1993 budget=$6,574,000:

—Phoenix, South Central Station—Construction award.
—Quartzsite, Main Post Office—Site purchase and Design award.
—Tucson, San Xavier Station—Site purchase and Design award.
—Tucson, Mesquite Station—Site purchase and Design award.

Major mail processing facilities budget=$63,744,000:

Fiscal year 1992:
—Phoenix, Airport Mail Facility—Design award.
—Phoenix, General Mail Facility (expansion)—Site purchase.
—Tucson, General Mail Facility (expansion)—Design award.
Fiscal year 1993:
—Phoenix, Airport Mail Facility—Construction award.
—Phoenix, General Mail Facility (expansion)—Design award.
—Tucson, General Mail FAcility (expansion)—Construction award.

Projects previously on the five-year plan that were deferred as a result of the Omnibus Budget Reconciliation Act of 1987:

Quartzsite, MPO—Construction
Kayenta, MPO—Construction
Phoenix, McDowell Station—Construction
Scottsdale, Papago Station—Construction
Mesa, Falcon Field—Construction
San Luis, MPO—Site, Design and Construction
Page, MPO—Construction
Buckeye, MPO—Construction
Phoenix, Metro Station—Site, Design and Construction
Riviera, MPO—Design and Construction
Chino Valley, MPO—Design and Construction
Wickenburg, MPO—Site, Design and Construction
Tucson, San Xavier Station—Construction
Tucson, Mesquite Station—Construction
Tucson, El Rio Station—Construction
Tucson, Saguaro Station—Site, Design and Construction
Tucson, Airport Mail Facility, Site, Design and Construction

INITIATE ACTION TO LEASE NEW SPACE FIVE-YEAR PLAN FOR THE STATE OF ARIZONA

Fiscal year 1989:

Vernon, Main Post Office
Sedona, Carrier Annex
Concho, Main Post Office
Kirkland, Main Post Office
Joseph City, Main Post Office
Dragoon, Main Post Office
Peridot, Main Post Office
Marana, Main Post Office
Hereford, Main Post Office
San Carlos, Main Post Office
Ganado, Main Post Office
Nogales, Rio Rico Branch
Fort Defiance, Main Post Office

Fiscal year 1990:

Arivaca, Main Post Office

Fiscal year 1991:

Fort Thomas, Main Post Office
Mammoth, Main Post Office
Wickenburg, Main Post Office
Florence, Main Post Office
Maricopa, Main Post Office
San Luis, Main Post Office
Waddell, Main Post Office
Parker, Main Post Office
Tacna, Main Post Office
Gila Bend, Main Post Office
Black Canyon City, Main Post Office
Gadsen, Main Post Office
Avondale-Goodyear, Estrella Park Station
Sacaton, Main Post Office

Fiscal year 1992:

Tolleson, Main Post Office
Eloy, Main Post Office
Sun City, Surprise Station
Phoenix, Ahwatukee Station
Scottsdale, Pinnacle Peak Station
Cortaro, Main Post Office
Sanders, Main Post Office
Mt. Lemmon, Main Post Office
Elfrida, Main Post Office
Duncan, Main Post Office
Claypool, Main Post Office

Fiscal year 1993: [1]

Young, Main Post Office
Cochise, Main Post Office
Pearce, Main Post Office
Sahuarita, Main Post Office

[1] Phoenix Division submittal did not reflect leased projects planned in fiscal year 1993.

SAFFORD, AZ, POST OFFICE

Senator DECONCINI. Let me address a very parochial problem we have, and I haven't had a chance to really talk to you about this. As you may be aware, Mr. Frank, residents of a very small town in Arizona, Safford, that has a particular interest to me because my mother was born there, or very near there, are greatly concerned about the growing traffic congestion in the vicinity of the downtown post office.

The community would like to relocate the post office to a more suitable site. I have been over there; I have sat there and watched the traffic, and part of it is the configuration of the town and the way the traffic goes there. But they have attempted to change that on occasion and it just is not very healthy.

Can you tell us why the Postal Service is so reluctant to work with a local farming community such as this to levelop a plan to help resolve the continuing controversy here? Maybe you could respond for the record, since I am probably catching you off guard here.

Mr. FRANK. Well, I will be happy to furnish you a complete indication of what is happening there.

Mr. FRANK. I have looked into it. One of the problems that is causing the congestion is the absence of parking, and we think we can make arrangements for nearby parking.

There is no suggestion that our facilities there, which are three, are not serving the community. We have two problems. One is the parking, and the second—I gather that the town or city administration would like to have the building for their own use, which doesn't sound like a way to cut down congestion.

Senator DECONCINI. Well, I asked that question over there and they think there is some truth to that, no question about it. They have done studies of how many people go in there because the post office is there and they think that the number is double or triple than if it were available for other government uses.

Mr. FRANK. Well, we will furnish you——

Senator DECONCINI. I can't say that that is true, but that is what they say. In your 5-year plan, it would be helpful to know whether or not the Safford facility is included.

Mr. FRANK. It is not.

Senator DECONCINI. It is not included?

Mr. FRANK. No, sir.

Senator DECONCINI. Well, maybe you can do something to help us get it included.

Mr. FRANK. Sure.

Mr. COUGHLIN. Excuse me.

Senator DECONCINI. Yes.

Mr. COUGHLIN. Senator, there definitely is a plan to try to lease additional space nearby to provide additional parking. That is definitely in the plan.

Senator DECONCINI. In the 5-year plan?

Mr. COUGHLIN. Yes; in fact, it is not a 5-year plan; it is in the more immediate future.

Senator DECONCINI. Oh, it is?

Mr. COUGHLIN. Yes.

Senator DECONCINI. Will you supply that to us?

Mr. COUGHLIN. Yes; we will.

Senator DECONCINI. Thank you.

[The information follows:]

SAFFORD, AZ, MAIN POST OFFICE

There are currently no plans to replace the main post office in Safford, Arizona. However, there are a number of local initiatives that have been taken to improve traffic problems and retail services.

The Safford Postmaster has apprised local officials of his efforts to alleviate congestion. Two satellite office branches have been established to relieve retail services at the main office. Additional services have been provided during the traditional peak demand periods. Window services have also been extended to Saturdays.

With these actions completed the traffic congestion problems have been, for the most part, resolved.

Senator KERREY. Mr. Chairman, I have a list of questions that I will submit later on to be answered for the record.

STATUS OF THE POSTAL SERVICE

I am trying to get a picture in my own mind of what appears to me to be happening in the Postal Service. I assume if I don't under-

stand it that an awful lot of people in Nebraska don't understand it either. I will just describe how I see the world.

It seems to me that we are making a transition from an agency that was clearly a Federal Government agency to one that now is a private agency. It is still in the Federal budget, and it seems almost like we are trying to jump over a fence and we are still sort of hung up with part of us back in the old world and part of us struggling to get into the new.

I mean, have we not quite done all—"we" being the elected representatives—have we not done quite all that we need to do to make that break final?

Mr. FRANK. Well, Senator, indeed, we have taken some steps backward. There is a lack of understanding by the public, and some here. We don't use taxes except in the possible two instances the chairman mentioned, and those are arguable.

We were off the budget for a decade. From 1974 to 1985, we were off budget, and now we are back on. So it isn't that we are making progress toward that; we are retrogressing in that regard.

OMB Director Stockman put us back on, and then Gramm-Rudman, I guess, memorialized it, and we are in the position of not affecting the Federal budget through tax money and yet we are on budget.

The irony is that in 1990 and each year thereafter, because of our cycle of gains and losses—we are required to break even over time—and our capital program, we adversely affect the budget.

If we are on budget in fiscal year 1990, it will increase the Federal deficit by $2.2 billion. It will increase because we are projecting a loss and the full cost of our fiscal year 1990 capital investments is counted when computing the Federal deficit. We lose money in the third year, traditionally.

So not only should we not be on budget, in my view, because we don't use taxes, but we worsen the situation on a cash basis and it is pretty serious, about $7.5 billion over the next 5 years that will adversely affect the Federal budget by our being on budget.

CONSTRAINTS ON THE POSTAL SERVICE

Senator KERREY. I know that we are getting on to very thin ice here, but are there other political constraints that make it difficult for you to get the mail there on time and do the best job that you can?

Mr. FRANK. We are, what I would say, a business-like public service. We don't run just a business. If we did, my answer to your question would be different, but we run a public service, too, and we have to provide uniform service to every American at a uniform rate. That means at the same rate, and we have to provide universal service; that means the same service.

Those are political considerations; they are in the Postal Reorganization Act, and I believe in them. And so I think it is proper that there be political oversight, which would be improper if it were just a business.

Do we have constraints? Sure. I don't like the Postal Rate Commission being required by law to take up to 10 months to make a decision. That makes it pretty difficult for us, and we have some

other areas. If you are interested, I would be happy to indicate to you what some of our constraints are, but I don't decry the oversight.

We have some 40 oversight hearings a year up here. I think it is reasonable and proper because we are not a business, solely.

Senator KERREY. Yes; I would be interested at some point in hearing a longer discussion of that because I am very much aware that when it comes to Postal Service issues, what I get is pressure, requests to do "A," and I want to make certain that I have a good enough understanding that in the pursuit of "A," I don't cause some consequence out there that would be unfortunate that would actually worsen the situation.

Mr. FRANK. It is very difficult. We are asked by law to do a zero sum game, and if one group or party or class or subclass gets an advantage, another comparable group has to pay for it.

Senator DECONCINI. Would the Senator yield for just a followup?

Senator KERREY. Sure.

Senator DECONCINI. I would welcome it if you would give us some background information on what restraints you feel are detrimental, including the ones you mentioned here and any others. I happen to be a cosponsor of legislation to take you off budget, and I would sure like to see that because I think that not only does it help with the deficit; I think it puts it back really on your shoulders to do what you were charged to do in the first place.

Mr. FRANK. Well, in the near term we have two extraordinary problems. One is our debt ceiling. The same legislation that created us limited our borrowing to $10 billion in 1971. That doesn't buy you much in 1990.

Second—and I know this is a tender issue up here—the limitations on me to pay my executives are extraordinary. The limitations are extraordinary because we do compete for executives for the business part of our operation. It is an enormous business, $40 billion a year, and I have people that are supervising 175,000 people who are making $90,000 a year and it is not right.

Senator DECONCINI. Thank you, Mr. Frank.

Mr. FRANK. Thank you for allowing me to say that.

Senator KERREY. Underlying my concern is a belief not only that the Postal Reorganization Act correctly defined an objective for the Postal Service, but, you know, that in the rush to make things better we can clearly make them worse.

I am myself a letter-writer and an occasional receiver of letters that I enjoy, and would not want to lose what I consider to be still an enormous bargain. I would not want to lose it, in particular, as a consequence of something I did. [Laughter.]

Mr. FRANK. I appreciate your comments.

Senator DECONCINI. We will cover you.

Do you have any other questions?

Senator KERREY. No.

SUBMITTED QUESTIONS

Senator DECONCINI. Thank you, Mr. Frank, very much. Senator Domenici and Senator Byrd have some questions. We will give you those, as well as my questions and those of Senator Kerrey.

Mr. FRANK. Thank you, Mr. Chairman.

Senator DECONCINI. Thank you very much.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR DECONCINI

QUESTION: The 1987 Reconciliation Act imposed additional payments on the Postal Service and placed caps on your capital investment program. What has been the impact of the '87 Reconciliation Act on your capital program?

ANSWER: Due to the 74 percent reduction in planned capital commitments for Fiscal Year 1988 and the reduction of 50 percent for Fiscal Years 1988 and 1989 combined, the Postal Service virtually suspended its Fiscal Year 1988 facilities program and significantly reduced capital commitments for vehicles and customer services, mail processing and postal support equipment. As a result of the numerous facility projects which were deferred or delayed a year or more, construction costs will be higher, site costs will be higher, and some preferred sites for facilities will no longer be available. In addition, the significant gains made in recent years toward addressing a backlog of replacement facility projects was reversed. The Postal Service plans accelerated commitments beginning in 1990 in an attempt to get the capital program back on track, put in place the automation and other state-of-the-art technology needed to improve efficiency, and modernize operations and improve customer convenience.

QUESTION: Did any of these "savings" come out of your operating budget? If so, did the Postal Service have to cut service to achieve these savings? Please explain.

ANSWER: In addition to the severe reductions in the capital program for FYs 1988 and 1989, described above, the Omnibus Budget Reconciliation Act (OBRA) required an additional reduction of $160 and $270 million in operating budgets for FY 1988. This requirement came after Postal Service plans for that year were already in place and partially accomplished.

Following are the programs implemented to accomplish the $160 million and $270 million OBRA operating budget reductions for FYs 1988 and 1989, respectively. Targets were established to achieve savings slightly higher than required by OBRA, thus building in a contingency.

	OBRA Reductions ($ millions)	
I. Programs Implemented In Both FYs 1988 and 1989	FY 1988	FY 1989
o Servicewide administrative cost reduction	67.1	147.0
o Elimination of Sunday collection and outgoing distribution	18.0	26.2
o Carrier route information system sortation	13.6	18.5
o Transportation:		
Elimination of selected AMTRAK service	2.0	
Convert some air transportation to highway	10.0	
Increase load requirements for BMC rail/highway vans	11.2	
II. New Programs Initiated for FY 1989		28.8
o Transportation:		
Convert system air contract to segment	0	
For one-way volumes, convert from highway to rail	0	
o CRIS sortation kits for Burroughs OCR	0	3.0

o Phase II Bar Code Sorter	0	8.8
o Letter Sorting Maching (LSM) modification	0	4.4
o Model 775 Flat Sorting Machine	0	21.3
o Non-Bargaining merit salary increases	0	30.0

III. FY 1988 Programs Discontinued for FY 1989

o Selected closing of retail operations and reduced collections following Christmas and New Year's	2.5	0
o Eliminate ZIP + 4 lookup at CFS	2.0	0
o Reduction in window service hours	40.0	0
o Reduce and centralize innovation fund	7.4	0
TOTAL	173.8	288.0

In their Compliance Audit Report to Congress on October 3, 1988, GAO certified that, for FY 1988, the Postal Service met the cost reduction provisions of OBRA.

Of the cost reduction programs listed in Section I above, there were three that had some adverse impact on service in both FYs 1988 and 1989 -- elimination of selected AMTRAK service; increasing the utilization of rail/highway vans at Bulk Mail Centers; and elimination of Sunday collection and outgoing distribution.

In Section III above, window services in FY 1988 was the only reduction significantly affecting service. Window hours were restored to approximately their original levels on September 10, 1988.

QUESTION: What impact has the '87 Act had on your facilities program? Can you give us examples of facilities that have not been built, have been deferred, or canceled altogether?

ANSWER: The Budget Reconciliation Act had a severe impact on the Postal Service Facilities Program. For Fiscal Year 1988, the facilities budget was reduced by nearly 80 percent, from $1.673 billion to $392 million. The impact on the 1989 program was not nearly as disruptive and amounts to a reduction of a little more than 10 percent. In total, the impact equates to the loss of a year in providing needed postal facilities.

Design contracts for 174 approved buildings had to be deferred. Construction contracts could not be awarded for another 343 projects that were either in design or had design completed.

The majority of these projects were for community post offices; however, a number of badly needed major mail processing centers were impacted. Some 1988 projects were deferred to 1989 and are now being constructed, while others are still being delayed. Following, as an example, are some specific major facility projects which were delayed from the FY 1988 program:

Projects Deferred from FY'88 to FY'89 - Now in Construction

Queens, NY ($115.7 million)
Alhambra, CA ($61.5 million)
North Atlanta, GA ($82.1 million)
North Houston, TX ($78.7 million)
North Dallas, TX ($72.1 million)
Middlesex-Essex, MA ($39.0 million)
Denver, CO ($75.5 million)
North Orlando, FL ($39.7 million)

FY'88 Projects Deferred Beyond FY'89

Champaign, IL ($17.0 million) (FY'90)
Athens, GA ($10.7 million) (FY'90)
Lehigh Valley, PA ($40.6 million) (FY'90)
Bryan, TX ($13.6 million) (FY'90)
Clarksburg, WV ($17.8 million) (FY'91)
Brockton, MA ($31.2 million) (FY'90)
Gainesville, FL ($20.7 million) (FY'90)
Harrisburg, PA ($83.6 million) (FY'91)

Impact on Site Acquisitions

Site acquisition has traditionally been the most inhibiting step in the facility process. Significant progress was made in this area in 1987 with the acquisition of 726 sites. The reduction in capital funds had a dramatic impact in 1988 during which only 156 sites were acquired. With the focus on constructing previously delayed projects this year, we anticipate sufficient funds for less than 150 new sites in FY'89. The inflation rate for sites, four to five percent per year, will have a compound effect on future site costs.

QUESTION: The FY 89 Conference Report directed the U.S. Postal Service to undertake a feasibility study on the modification of existing regulations to require door-to-door mail delivery in retirement communities constructed after 1978. This language was included because of continuing concerns expressed by senior citizens about mail theft from curbside mail boxes. That report is due to the Committee by June 1, 1989. I wonder if you can give us a progress report on this study?

ANSWER: Headquarters representatives have visited Sun City, Arizona and surrounding retirement communities to determine the source of the concerns raised in the Committee conference report.

Our review found that there were no significant incidents of theft to warrant a change in the current mode of delivery in that area. Postmaster Helen Kennedy, Sun City, Arizona estimates that there may have been ten incidents in the past five years that involved mailbox vandalism or theft. We spoke with local police and were provided with records from the Maricopa County Sheriff's Office that indicate that Sun City has one of the lowest crime rates in the county.

In an effort to address the concerns of the Committee regarding retirement communities, we will be reviewing other retirement community areas in April to determine if they experience frequent incidents of theft and vandalism of curbside mailboxes.

Section 403(c) of title 39 United States Code provides that "the Postal Service shall...not make any undue or unreasonable discrimination among users of the mails, nor shall it grant any undue or unreasonable preferences to any such user." If we were to consider converting curbside deliveries, only in retirement communities, to door delivery, it could be viewed as discriminatory. Our preliminary findings indicate that if we were required to convert all existing curbside deliveries to door, the cost would be approximately $1.4 billion annually (cost of door delivery is about $140 per delivery per year vs. $99 for curb delivery). Additional research will be conducted and a final report issued June 1st.

QUESTION: What is the status of the identification of an alternative location for a Postal Service distribution facility in the vicinity of Palatine, Illinois? Have the community leaders been consulted, and has any agreement been reached between the community and the Postal Service? Please explain.

ANSWER: The most recent developments in this project include the award of a design contract on February 2 of this year and the anticipated award of a demolition contract in April. At this time, there is only one remaining tenant on the Palatine property, and it is likely that actual demolition activity will commence in late April or early May.

There has been some resistance by the Village of Palatine concerning the provision of certain information needed by the architect to facilitate the design of the building. They have demanded that any requests for information be in writing. This may delay the design somewhat, but Chicago officials do not feel this is an insurmountable problem. Even if there would be an outright refusal by the Village to furnish the requested information, it could be obtained by other means, albeit more difficult.

QUESTION: Can you provide the Committee with an update on the proposed contract between the Postal Service and Perot Systems?

ANSWER: On December 16, 1988, the Postmaster General formally terminated the contract with Perot Systems.

QUESTIONS SUBMITTED BY SENATOR KERREY

QUESTION: The Administration has proposed that, except for mail for the blind and overseas voters, all subsidized mail be eliminated. Who would be hurt most by such a proposal -- the nonprofits?

Would the impact be greater in rural than in urban areas?

ANSWER: The answer depends on whether specific direction is provided to the Postal Service by Congress on how to recover the lost subsidy. If no specific direction is provided, the existing law provides for the Postal Service to recover any lost subsidy by increasing the subsidized or "preferred rates". If that were the case, preferred mailers would be directly harmed by the lost subsidy. Preferred mailers include nonprofit organizations, small newspapers, libraries, and classroom publications. For the most part, the burden would be spread among both rural and urban areas. The loss of the subsidy for small, local newspapers would be felt primarily in small towns and rural areas where the mail is often used to deliver newspapers delivery subscribers.

One proposal calls for most of the preferred mailers to continue to receive lower postal rates. Under that circumstance, the burden for financing the lower rates would fall upon non-subsidized postal customers which include businesses, both large and small, and individuals. That type of burden would be spread among rural and urban areas.

QUESTION: There is a Senate bill, S. 302, which would place the Postal Service off-budget. What is your position on this legislation?

ANSWER: I strongly support it. The Postal Service must charge its customers postage to pay the expenses of the service on a break-even basis, using businesslike accrual accounting. Including our budget on a modified, cash-accounting basis within the Government's annual budget is misleading and harmful both to our efforts to operate the Postal Service in an efficient manner and to the larger effort to attack the federal deficit. The on-budget presentation gives an appearance that the Postal Service is adding to federal deficit spending when in fact the public is paying for our services as received. This distortion distracts from the work of reducing the real deficit and invites scorekeeping gimmicks and illusory "savings" measures such as those imposed on the Postal Service in December 1987 and proposed again in the outgoing Administration's budget this past January.

The Postal Service is intended to be a self-sustaining operation providing mail services the American people want at a price they can afford. To do that, we need to make continual improvements in working together both within our organization and with our customers to accomplish our job in a more efficient, productive manner. As those efforts

bear fruit, the savings belong to the users of the postal system, who pay for it.

QUESTION: There seems to be some misunderstanding as to whether having the Postal Service on-budget increases or decreases the federal deficit. Could you enlighten us?

ANSWER: Having the Postal Service Fund on-budget could either increase or decrease the federal deficit -- the impact depends upon whether the Fund has positive or negative outlays in any given year. Positive outlays (an excess of disbursements over receipts) increase the federal deficit and conversely negative outlays decrease the federal deficit. Based upon information included in the 1990 President's Budget, the Postal Service Fund reflects estimated positive outlays of $2.2 billion in FY 1990. Therefore, having the Postal Service Fund on-budget increases the projected federal deficit by $2.2 billion in FY 1990.

Further, the Postal Service has adopted a $12.9 billion, Five-Year Capital Investment Plan (FY 1989-1993) to meet the demands of continued strong workload growth, improve productivity, keep pace with shifting population patterns and cope with an aging facility inventory. This will require substantial outlays over the next five years. Although the long-term budget impact of this capital investment program is zero, it will, most likely, result in positive outlays for the Postal Service Fund over the near term, thereby adversely impacting and distorting the federal deficit if the Postal Service remains on-budget. Consistent with the intent of the Postal Reorganization Act (PRA), the newly created Postal Service was moved off-budget in 1974, and remained there until the FY 1986 Budget. We believe the PRA intended for the Postal Service to be off-budget, thereby insulating Postal Service financial and operating decisions from the political budgetary process.

QUESTION: The Budget Reconciliation Act of 1987 limited Postal Service capital investments in FY 1988 and FY 1989. What is the dollar value of capital improvements which you were not permitted to make as a result of this limitation?

ANSWER: In FY 1988, capital commitments were reduced from the planned $2,360.8 million to $625 million, a reduction of $1,735.8 million. In FY 1989, planned commitments were reduced from $2,630.0 million to $1,995.0 million, a reduction of $635 million. A breakdown of the impact by program is attached.

IMPACT OF OMNIBUS BUDGET RECONCILIATION ACT ON CAPITAL INVESTMENT COMMITMENT PLANS ($ MILLIONS)

FISCAL YEAR 1988

Program	FY 1988 Original Plan	FY 1988 Revised Plan	Actual	% Variance
Facilities	$1,673.0	$387.3	$392.7	1.4%
Mail Processing Equipment	237.8	96.1	91.9	-4.4
Vehicles	24.5	10.5	10.0	-4.8
Customer Service Equipment	162.5	64.9	64.1	-1.2
Postal Support Equipment	263.0	66.2	65.2	-1.5
Total Capital	$2,360.8	$625.0	$623.9	-0.2%

FISCAL YEAR 1989

Program	FY 1989 Original Plan	FY 1989 Revised Plan	Reduction
Facilities	$1,328.0	$1,153.2	$174.8
Mail Processing Equipment	910.3	580.8	329.5
Vehicles	141.9	37.2	104.7
Customer Service Equipment	70.9	67.5	3.4
Postal Support Equipment	178.9	156.3	22.6
Total Capital	$2,630.0	$1,995.0	$635.0

QUESTION: Could you supply a list of projects affected?

ANSWER: In FY 1988, the new construction program was virtually halted. Design contracts for 174 approved buildings had to be deferred. Construction contracts could not be awarded for another 343 projects that were either in design or had designs completed. The majority of these projects were for community post offices; however, a number of badly needed major mail processing centers were impacted. Some 1988 projects were deferred to 1989 and are now being constructed, while others are still being delayed. The following, as an example, are some specific major facility projects which were delayed from the FY 1988 program:

Projects Deferred to FY 89	Projects Deferred beyond FY 89
Queens, NY	Champaign, IL
Alhambra, CA	Athens, GA
North Georgia, GA	Lehigh Valley, PA
North Houston, TX	Bryan, TX
North Dallas, TX	Clarksburg, WV
Middlesex-Essex, MA	Brockton, MA
Denver, CO	Gainesville, FL
North Orlando, FL	Harrisburg, PA

In addition, contracts for Integrated Retail Terminals and Retail Vending Equipment were deferred, delaying the improved efficiency and customer convenience associated with these programs.

QUESTION: What is the impact on your operations?

ANSWER: As a result of the numerous facility projects which were deferred or delayed a year or more, construction costs will be higher, site costs will be higher, and some preferred sites for facilities will no longer be available. These commitment limitations reversed the significant gains made in recent years toward addressing a backlog of replacement facility projects. The FY 90 plan calls for accelerated commitments beginning in 1990 in an attempt to get the capital program back on track, put in place the automation and other state-of-the-art technology needed to improve efficiency, and modernize operations and improve customer convenience.

QUESTION: What is your current backlog of unmet capital investments?

ANSWER: These commitment limitations reversed the significant gains made in recent years toward addressing a backlog of replacement facility projects, delaying necessary facility replacement plans. As a result of the commitment caps, design contracts for 174 approved buildings had to be deferred, construction contracts could not be awarded for another 343 projects that were in design or had designs completed, and just over 300 sites will have been acquired in Fiscal Years 1988 and 1989 combined, compared to 726 in Fiscal Year 1987 alone.

There are over 130 major facilities on the national priority listing, and approximately 20,000 facility-related projects (including repair and alteration projects) in our current five-year capital investment plan.

QUESTION: Do you have a priority list and a plan for meeting these needs in the absence of a continuation of a limitation such as that currently imposed?

ANSWER: Our highest priority projects are our automation and mechanization projects which produce high returns on investment and necessary efficiency gains. Once these essential projects have been funded, remaining funds are allocated to our facility program. There are over 130 major facilities on our national priority listing. Facilities are prioritized according to operational and other criteria, including the maintenance of our national processing network, operational and service needs, space deficiencies, number of employees affected, facility age, and regional priority. Our priority list is then adjusted to reflect the

availability of sites and environmental problems that may adversely affect the project.

We are in the midst of developing our FY 1990-1994 Capital Investment Plan. Our current plan (FY 1989-1993) is designed to fund the essential projects that were deferred as a result of the FY 1988 and FY 1989 reductions and move forward with projects that will ensure the effectiveness of operations in the next century. Thus, it includes accelerated commitments beginning in 1990 in an attempt to get the capital program back on track, put in place the automation and other state-of-the-art technology needed to improve efficiency and modernize operations and improve customer convenience.

QUESTION: Under the Budget Reconciliation Act, the Postal Service has $465 million in an escrow account. Those funds are to be returned on October 1, 1989. What impact will that have on your budgeting -- and on your operations?

ANSWER: The creation of the $465 million escrow fund in FY 1989 had no impact on the Postal Service budget for that year and the return of these funds during FY 1990 will also have no budget impact. Fortunately, these funds were excess to the operating needs of the Postal Service during the period they will be in escrow, therefore, there will be no impact on operations.

QUESTION: Are you currently contemplating any reductions in services delivery, window hours, etc.?

ANSWER: There are no plans to reduce delivery service. It is felt the current delivery service resources are necessary to handle current and anticipated delivery workloads. At this time, we are not currently contemplating any reductions in window services hours. However, we do have on-going programs in place to assess changes in community profiles and to readjust window service locally to meet customers' needs. We also have strategies in place to increase customers access to the routing purchases of stamps and postage applied products in locations other than the window services counters, such as consignment and stamps-by-mail. This will not adversely affect those customers whom our market research has shown are "Lobby Loyalists."

QUESTION: A number of postal workers are interested in Hatch Act reform. What is your position on legislation to enact such reforms? Are there any proposals which cause you problems?

ANSWER: We are concerned about protecting the confidence of the American people in the impartiality and reliability of the Postal Service. The public entrusts us with its private letters and messages, including vast quantities of political

campaign material and increasingly, even voter ballots. It does so with the assurance that we will deliver them promptly and that under the Constitution this correspondence is to be kept secure from prying eyes. What would happen to public confidence if it became accepted practice for the local letter carrier, for example, to become known in the community as the local precinct captain for one political party or the other, or as a fund raiser along his route for a partisan candidate or party? We can't be sure what the effect would be. We do know that public trust in the sanctity and impartiality of the mail system is a national treasure. If we ever started to lose that trust, it would be very difficult to get it back.

QUESTION: There has been some discussion of privatization of the Postal Service. Have you looked into this possibility?

ANSWER: The Postal Reorganization Act required the Board of Governors of the Postal Service to reexamine the need for the Private Express Statutes, which restrict private carriage of letters, and to provide a report and recommendations to the President and the Congress. The Board's report concluded that these statutes and the system of universal service and uniform rates which they support are sound and should be retained. Statutes Restricting Private Carriage of Mail and Their Administration: A Report by the Board of Governors to the President and the Congress Pursuant to Section 7 of the Postal Reorganization Act, House of Representatives, Comm. on Post Office and Civil Service Print No. 93-5, 93d Cong., 1st Sess. (1973).

In succeeding years we have found no reason to alter the conclusions offered by the Board in this report. Consistently strong growth in demand for postal services suggests that the public continues to value its heritage of an integrated postal network affording service to everyone in all communities across the Nation, with uniform rates for the delivery of correspondence between any two points in the United States.

QUESTION: To what extent are you contracting out operations? Is this a back-door approach to privatization?

ANSWER: The Postal Service obtains a great amount of assistance from the private sector in doing its job for the public. Almost $4.7 billion of operating expenses were incurred in Fiscal Year 1988 for private sector goods and services. An additional $624 million in capital commitments went to the private sector. Not reflected in these amounts is the value of work-sharing services performed by mailers to qualify for postage discounts; this additional private sector contribution was estimated at over $3 billion for Fiscal Year 1988.

The following schedule divides FY 1988 expense and capital commitments between the government and private sectors.

Description	USPS Total ($ millions)	Gov't ($ millions)	Private ($ millions)	Percent Private
Compensation and Benefits	$30,479	$30,479	---	---
Other Expenses:				
Travel of Persons	130	12	118	91
Transportation of Items	2,737	259	2,478	91
Rent	427	44	383	90
Communications and Utilities	386	---	383	100
Printing and Reproduction	62	44	18	29
Other Services	663	79	584	88
Supplies and Materials	668	37	631	94
Insurance Claims	58	---	58	100
Interest - Notes, Bonds	416	399	17	4
Subtotal, Other Expenses	5,547	874	4,673	84
Total Expenses	36,026[1/]	31,523	4,673	13
Capital Commitments:				
Equipment	231	---	231	100
Land and Structures	393	---	393	100
Total	624	---	624	100

1/ Excludes $420 million of depreciation and other write-offs.

The Postal Service must continue to draw on what is available from the private sector, by contract or other means, in order to serve the American people as well as possible. We view prudent use of private resources, in combination with our own employees, as an essential ingredient for preventing, not promoting, what we understand to be meant by "privatization," which is an erosion of the national postal system. To maintain a healthy, prosperous, and growing national Postal Service, able to continue providing the public the quality services people want at reasonable prices into the next century, we must learn to make increasingly productive use of both our own resources and the assistance available from the private sector.

QUESTION: Do you have any construction needs/plans for Nebraska?

ANSWER: The following indicates new facility projects for the state of Nebraska in each of the next five fiscal years:

NEW FACILITY PROJECTS*

FOR THE STATE OF NEBRASKA

FY'89	FY'90	FY'91	FY'92	FY'93
Aurora	Anselmo	Amherst	Davey	Bingham
Bartley	Ashby	Barneston	Kilgore	Crab Orchard
Belgrade	Bancroft	Cairo	Lynch	Culbertson
Belvedere	Bushnell	Crofton	Omaha/	Dixon
Bradshaw	Clearwater	Crookston	Northwest Sta	Elsie
Brewster	Dalton	Liberty	Polk	Ft. Calhoun
Chapman	Danbury	Madison	Raymond	Hubbard
Doniphan	Dodge	Madrid	Sargent	Inavale
Ellsworth	Edison	Omaha/	Snyder	Laurel
Humphrey	Elba	Florence Sta	Valparaiso	Merriman
Lebanon	Elkhorn	Trenton		Morse Bluff
Macy	Ewing	Tryon		Nemaha
Newport	Grant			North Platte
Oxford	Gretna			Omaha
Peru	Kennard			Osmond
Riverton	Louisville			Palisade
Wilsonville	Malcom			Platte Center
	Mason City			Royal
	Omaha/AMF			Stapleton
	Omaha/Station B			
	Petersburg			
	Pleasant Dale			
	Shelby			
	Sterling			
	Stuart			
	Uehling			
	Unadilla			
	Verdon			
	Wellfleet			
	Woodlake			

* Main Office unless otherwise noted.

QUESTIONS SUBMITTED BY SENATOR BYRD

QUESTION: Mr. Frank, as Postmaster General, again, let me ask you for the record, what are your views on maintaining the extensive delivery network that makes the Postal Service unique, and do they differ from those of your predecessor?

ANSWER: The Postal Reorganization Act of 1970 directed the introduction of sound business practices into the operation of the Postal Service, and carried forth the traditional precept that the Nation's mail service is first and foremost a public service. The opening passage of the Act reads, in part: "The Postal Service shall have as its basic function the obligation to provide postal services to bind the Nation together..." As a consequence, Postal Service officials must manage operations in the most efficient manner possible while still maintaining a good level of service.

In Fiscal Year 1988, the Postal Service handled 160 billion pieces of mail. We expect to handle over 163 billion in the current fiscal year. I do not see how we could handle this volume with less than the full six delivery days and we have no plans to eliminate a delivery day in the foreseeable future.

QUESTION: Again, let me ask you for the record, what are your views on the Grace Commission regarding the closing of thousands of small post offices?

ANSWER: Economically, it might make sense to discontinue a number of small, unprofitable post offices. The Postal Reorganization Act, however, clearly states: "No small post office shall be closed solely for operating at a deficit."

The (Grace Commission) Survey generally endorsed the major business programs being implemented by postal management and made a number of suggestions concerning financial management, corporate planning, and marketing. The Grace Commission suggested the Postal Service should close numerous small post offices. In purely economic terms it would make sense to discontinue a number of small, unprofitable post offices. However, we disagree with the suggested wholesale closing of small post offices, believing that the revenues taken in by an office are not an accurate reflection of its worth to the delivery system and that the unique universal postal delivery network should be maintained.

The Postal Reorganization Act further supports our view and clearly states: "No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities."

Furthermore, the Postal Reorganization Act provides for full opportunity for public comment prior to any decision to close a post office. The law also provides that any decision to discontinue a post office must be based on consideration of the effect on the community served and on the employees of the post office; compliance with the statutory mandate that the Postal Service provide effective and regular postal services to rural areas, communities and small towns where post offices are not self-sustaining; the economic savings to the Postal Service; and any other factors determined necessary by the Postal Service.

We will continue to adhere to the law when considering any action to close a post office.

QUESTION: Mr. Frank, I understand that the Postal Service, based on clarifying remarks in the *Congressional Record*, has instituted certain safeguards and procedures in these instances where the Postal Service believes that a post office must be closed. Would you elaborate for the record

on the safeguards the Postal Service uses in these selected cases?

ANSWER: Section 404(b) of title 39, United States Code, prescribes a detailed procedure that the Postal Service must follow in order to close a post office. The procedure assures the following protections for the people using the office proposed for closing:

- 60 days' notice of a closing proposal;
- an opportunity to provide comments;
- mandatory consideration by the Postal Service of certain prescribed factors including the effect on the community;
- a written, public determination setting forth the Postal Service's findings on all of the statutory criteria for closing; and,
- an opportunity to appeal a closing determination to the Postal Rate Commission for review.

When Congress first began putting some recurring language on post office closings in the annual postal appropriation acts, Senator Abdnor explained in a floor speech that the intention was to "send a clear message to postal management that Congress does not want the Postal Service to engage in the wholesale closing of post offices" and that no post office should be closed except "on a case-by-case basis, after careful consideration." 130 Cong. Rec. S12987-88 (daily ed. October 3, 1984). The Postal Service has been careful to see that procedural requirements are observed when it is necessary to consider closing a post office. The network of over 29,000 post offices across the nation is one of the strong points enabling us to serve all of America. We have no intention of diminishing this network except where careful consideration, on a case-by-case basis and in accordance with applicable procedures, shows that a particular office is no longer needed.

QUESTION: What is the status of proposed Postal Service construction projects in West Virginia, such as the proposed $18 million Clarksburg and $23 million Charleston postal facilities?

ANSWER: The Clarksburg, West Virginia project was approved by the Postal Service's Board of Governors on August 2, 1987. The site for the General Mail Facility and Vehicle Maintenance Facility has been purchased and the design completed. Construction funds are budgeted for Fiscal Year 1991.

The proposed Charleston project is a high priority project in the Eastern Region. Project planning is in the final stages. The Postal Service has purchased a site across the street from the existing main post office for a parking garage to house postal and employee vehicle parking. This site will be used in the event an expansion alternative to the existing facility is determined feasible.

Current plans call for initial building design to start in 1990 and award of a construction contract in 1991. These dates are based on project approval by the Board of Governors in October of this year.

QUESTION: Please provide for the record a list of proposed owned and leased facilities to be constructed in West Virginia in the foreseeable future; a short description of each proposed construction project (including need, dimensions, and the additional number of employees, if appropriate, cost of construction); and a schedule, including significant milestone events, leading to the planning, design, construction, and occupancy of each project.

ANSWER: The requested information follows.

NEW FACILITY PROJECTS FOR THE STATE OF WEST VIRGINIA

NEW CONSTRUCTION OWNED (FY'89 THRU FY'93)

POST OFFICE	UNIT	PROJECT START	APPROVAL	SITE ACQUIS	DESIGN COMPLETE	CONSTR COMPLETE	INT.SQ.FT.	NEED	ADDL EMPLYS
ANMOORE	Main Office	870223	870220	870908	880501	890818	928	2	None
BLUEFIELD	GMF	901115	910913	911018	921215	950420	128,000	-	None
CHARLESTON	Kanawa City Sta	891015	901114	910301	920513	930128	8,000	1	None
CHARLESTON	Mail Proc Annex	861017	880909	881125	890910	910918	179,000	1	
CHARLESTON	S Charleston Br	870106	881216	891230	921210	831010	13,294	1	None
CLARKSBURG	GMF & VMF	861017	870804	871202	871220	890927	142,845	1	
COWEN	Main Office	860124	880615	890301	900430	911010	2,960	1	None
HUNTINGTON	East Side Sta	900101	900131	900630	910730	921015	8,000	3	None
KEARNEYSVILLE	Main Office	860429	860403	870624	870514	880215	4,013	1	None
MEADOW BRIDGE	Main Office	870821	870813	880310	880301	920817	1,682	1	None
NEW CUMBERLAND	Main Office	891007	891106	900405	910105	910724	2,960	1	None
NORMANTOWN	Main Office	860512	860509	871008	870810	880315	928	2	None
ROSEMONT	Main Office	870224	870212	871006	880622	900601	1,056	2	None
WINFIELD	Main Office	860804	880302	881030	890231	890415	4,144	1&2	None
WORTH	Main Office	860825	871119	881201	880729	920413	928	2	None

NOTE: Under "NEED Category
1 = More Space Needed
2 = Improve Working Conditions
3 = Consolidation
4 = Lease Termination

LEASEBACK CONSTRUCTION FY'89-93 - CHARLESTON DIVISION

POST OFFICE, ZIP	UNIT	PROJECT START	PROJECT COMPLETE	INT.SQ.FT.	NEED	ADDL EMPLOYEES
ALUM CREEK, WV 25003	MPO	09/87	09/89	2,322	1&2	None
ARBOVALE, WV 24915	MPO	04/89	07/91	928	2	None
AUBURN, WV 26325	MPO	05/85	06/88C	616	2	None
BARTLEY, WV 24813	MPO	04/89	07/91	616	1&2	None
BECKLEY/SPRAGUE STATION, WV 25926	STATION	06/87	09/88	3,584	4	None
BECKWITH, WV 25814	MPO	05/87	07/89	616	1	None
BLUE CREEK, WV 25026	MPO	08/86	04/89	728	2	None
BOB WHITE, WV 25028	MPO	07/86	06/89	928	2	None
BRADLEY, WV 25818	MPO	11/87	10/88E	1,296	1&2	None
BUCKEYE, WV 24924	MPO	01/88	12/89	928	1	None
BUNKER HILL, WV 25413	MPO	05/86	03/89	2,002	1	None
CANEBRAKE, WV 24819	MPO	03/85	12/88E	928	1&2	None
CHATTAROY, WV 25667	MPO	10/84	08/88C	1,168	2	None
COOL RIDGE, WV 25825	MPO	08/87	08/89	1,330	1&2	None
DANVILLE, WV 25053	MPO	12/87	01/90	3,610	1	None
DURBIN, WV 26264	MPO	11/87	10/90	928	1&2	None
ELEANOR, WV 25070	MPO	02/87	06/89	2,322	1&2	None
EVANS, WV 25241	MPO	11/86	12/88C	928	1	None
FANROCK, WV 24834	MPO	03/87	09/89	928	1	None
GLEN FERRIS, WV 25090	MPO	08/87	02/89	616	1&2	None
HARPER, WV 25851	MPO	07/87	09/88C	616	2	None
HAVACO, WV 24841	MPO	04/87	05/88E	928	1&2	None
HEMPHILL, WV 24842	MPO	01/88	12/89	928	1&2	None
INDORE, WV 25111	MPO	10/88	10/90	928	1&2	None
JOLO, WV 25860	MPO	11/84	08/89	928	2	None
LANARK, WV 25860	MPO	02/87	04/89C	928	1&2	None
LORADO, WV 25630	MPO	02/87	02/90	928	2	None

MABIE, WV 26278	MPO	04/87	11/88C	928	1&2	None
MAXWELLTON, WV 24957	MPO	04/87	07/89	928	1&2	None
McCOMAS, WV 24735	MPO	10/84	10/89	928	1	None
MORGANTOWN, WV 26505 Star City Branch	BRANCH	07/88	07/90	3,000	4	None
NEW CREEK, WV 26743	MPO	01/86	09/92	640	1&2	None
NIMITZ, WV 25978	MPO	03/87	01/89C	928	1	None
ONA, WV 25545	MPO	12/85	06/89	1,680	1	None
PAGETON, WV 24871	MPO	03/87	11/89	928	1	None
PANTHER, WV 24872	MPO	02/87	11/89	928	1	None
PREMIER, WV 24878	MPO	02/87	11/89	928	1	None
PRINCE, WV 25907	MPO	03/87	01/89	616	2	None
PROCIOUS, WV 25164	MPO	04/87	01/89C	1,168	1&3	None
PURGITSVILLE, WV 26852	MPO	10/84	03/89C	616	2&4	None
RALEIGH, WV 25911	MPO	08/87	07/89	928	1&2	None
RANGER, WV 25557	MPO	01/88	12/89	1,168	1&2	None
ROCK, WV 24747	MPO	01/87	12/89	1,168	1&2	None
RODERFIELD, WV 24881	MPO	03/87	11/88	1,128	1&2	None
SANDYVILLE, WV 25275	MPO	06/87	12/88C	1,168	1&2	None
SARAH ANN, WV 25644	MPO	04/87	08/89C	928	1&2	None
SIMON, WV 24882	MPO	05/87	05/89	928	1&2	None
SPRINGDALE, WV 25986	MPO	08/86	11/88C	928	1&2	None
STEPHENSON, WV 25928	MPO	03/87	08/89	928	1	None
SUNDIAL, WV 25189	MPO	02/88	12/90	616	1&2	None
SWEET SPRINGS, WV 24980	MPO	03/87	12/89	928	2	None
TALCOTT, WV 24981	MPO	07/87	12/88	928	2	None
WASHINGTON, WV 26181	MPO	02/84	01/89C	2,160	1	None
WAR, WV 24892	MPO	09/84	12/88	1,408	1&2	None
WHITESVILLE, WV 25209	MPO	08/90	03/92	1,682	2	None
WINFIELD, WV 25213	MPO	08/88	08/90	4,227	1&2	None
WORTH, WV 24897	MPO	08/88	08/90	616	1&2	None

LEGEND: C = Completed
E = Estimated Date

NOTE: Under "NEED Category
1 = More Space Needed
2 = Improve Working Conditions
3 = Consolidation
4 = Lease Termination

QUESTION: Please provide for the record, a list of the principal postal facilities in West Virginia, their location, and number of employees at each site. Please also provide the total number of persons employed in West Virginia by the Postal Service. Could you provide this information for the past several years?

ANSWER: The requested information follows.

OMSS REPORT RPT@EA12
NUMBER OF EMPLOYEES ON ROLLS BY OFFICE BY MSC - CHAS DIV

INSTALLATION NAME	FINANCE NUMBER	ORGANIZATION TYPE NAME	
CHARLESTON FIELD DIV AREA	< FDV OFC AREA >		
CHARLESTON FIELD DIV OFC	55-1458	FDV-2(FORMER MSC-IV)	832
	INSTALLATION TYPE TOTAL ===>		832
ADVENT(WV) POST OFC	55-0054	ASOC OFC (8)	2
ALLEN JUNCTION(WV) POST OFC	55-0108	ASOC OFC (11)	2
ALLOY(WV) POST OFC	55-0114	ASOC OFC (11)	2
ALUM CREEK(WV) POST OFC	55-0156	ASOC OFC (13)	3
AMEAGLE(WV) POST OFC	55-0180	ASOC OFC (11)	2
AMIGO(WV) POST OFC	55-0192	ASOC OFC (13)	3
AMMA(WV) POST OFC	55-0198	ASOC OFC (11)	2
ANSTED(WV) POST OFC	55-0228	ASOC OFC (15)	3
ARNETT(WV) POST OFC	55-0300	ASOC OFC (11)	2
ARNOLDSBURG(WV) POST OFC	55-0306	ASOC OFC (13)	2
ARTLE(WV) POST OFC	55-0324	ASOC OFC (11)	2
ASHFORD(WV) POST OFC	55-0342	ASOC OFC (13)	2
BALD KNOB(WV) POST OFC	55-0426	ASOC OFC (11)	2
BANCROFT(WV) POST OFC	55-0456	ASOC OFC (13)	2
BARRETT(WV) POST OFC	55-0492	ASOC OFC (11)	2
BEARDS FORK(WV) POST OFC	55-0540	ASOC OFC (11)	2
BEAVER(WV) POST OFC	55-0552	ASOC OFC (15)	3
BECKLEY(WV) POST OFC	55-0564	ASOC OFC (22/4+SUPV)	99
BECKWITH(WV) POST OFC	55-0570	ASOC OFC (11)	2
BELLE(WV) POST OFC	55-0624	ASOC OFC (18)	10
BELVA(WV) POST OFC	55-0654	ASOC OFC (11)	2
BENTREE(WV) POST OFC	55-0678	ASOC OFC (11)	2
BICKMORE(WV) POST OFC	55-0744	ASOC OFC (11)	2
BIM(WV) POST OFC	55-0798	ASOC OFC (11)	2
BIRCH RIVER(WV) POST OFC	55-0804	ASOC OFC (13)	2
BLAIR(WV) POST OFC	55-0834	ASOC OFC (11)	2
BLOOMINGROSE(WV) POST OFC	55-0864	ASOC OFC (11)	2
BLOUNT(WV) POST OFC	55-0870	ASOC OFC (11)	2
BLUE CREEK(WV) POST OFC	55-0876	ASOC OFC (11)	2
BLUE JAY(WV) POST OFC	55-0888	ASOC OFC (11)	2
BOB WHITE(WV) POST OFC	55-0912	ASOC OFC (11)	2
BOLT(WV) POST OFC	55-0936	ASOC OFC (11)	2
BOMONT(WV) POST OFC	55-0942	ASOC OFC (11)	2
BOOMER(WV) POST OFC	55-0954	ASOC OFC (13)	2
BRADLEY(WV) POST OFC	55-0990	ASOC OFC (13)	3
BROOKS(WV) POST OFC	55-1080	ASOC OFC (E)	2
BUFFALO(WV) POST OFC	55-1140	ASOC OFC (13)	5
BURNWELL(WV) POST OFC	55-1182	ASOC OFC (C)	2
CABIN CREEK(WV) POST OFC	55-1194	ASOC OFC (15)	3
CALVIN(WV) POST OFC	55-1218	ASOC OFC (E)	2
CAMP CREEK(WV) POST OFC	55-1254	ASOC OFC (E)	2
CANNELTON(WV) POST OFC	55-1278	ASOC OFC (13)	2
CANVAS(WV) POST OFC	55-1284	ASOC OFC (11)	2
CARBON(WV) POST OFC	55-1314	ASOC OFC (11)	1
CEDAR GROVE(WV) POST OFC	55-1404	ASOC OFC (15)	2
CEDARVILLE(WV) POST OFC	55-1410	ASOC OFC (E)	2
CENTRALIA(WV) POST OFC	55-1422	ASOC OFC (E)	2
CHARLTON HEIGHTS(WV) POST OFC	55-1470	ASOC OFC (11)	2
CHARMCO(WV) POST OFC	55-1476	ASOC OFC (13)	2
CHLOE(WV) POST OFC	55-1530	ASOC OFC (11)	2
CLAY(WV) POST OFC	55-1572	ASOC OFC (15)	4

INSTALLATION NAME	FINANCE NUMBR	ORGANIZATION TYPE	NAME	
CLEAR CREEK(WV) POST OFC	55-1590	ASOC OFC	(11)	2
CLENDENIN(WV) POST OFC	55-1608	ASOC OFC	(18)	4
CLIFTON(WV) POST OFC	55-1626	ASOC OFC	(11)	2
CLIO(WV) POST OFC	55-1650	ASOC OFC	(E)	1
CLOTHIER(WV) POST OFC	55-1656	ASOC OFC	(11)	2
COAL CITY(WV) POST OFC	55-1680	ASOC OFC	(15)	3
COLCORD(WV) POST OFC	55-1734	ASOC OFC	(11)	2
COMFORT(WV) POST OFC	55-1764	ASOC OFC	(11)	2
COOL RIDGE(WV) POST OFC	55-1770	ASOC OFC	(13)	2
CORINNE(WV) POST OFC	55-1806	ASOC OFC	(11)	2
CORLEY(WV) POST OFC	55-1818	ASOC OFC	(C)	1
COSTA(WV) POST OFC	55-1848	ASOC OFC	(11)	2
COTTAGEVILLE(WV) POST OFC	55-1854	ASOC OFC	(15) EXEMPT	6
CRAB ORCHARD(WV) POST OFC	55-1896	ASOC OFC	(15)	3
CRANBERRY(WV) POST OFC	55-1908	ASOC OFC	(E)	2
CRICHTON(WV) POST OFC	55-1944	ASOC OFC	(C)	2
CROWN MILL(WV) POST OFC	55-1974	ASOC OFC	(E)	2
DANESE(WV) POST OFC	55-2076	ASOC OFC	(13)	2
DANIELS(WV) POST OFC	55-2082	ASOC OFC	(15)	3
DANVILLE(WV) POST OFC	55-2088	ASOC OFC	(15) EXEMPT	6
DAVES(WV) POST OFC	55-2118	ASOC OFC	(11)	2
DEEP WATER(WV) POST OFC	55-2142	ASOC OFC	(11)	1
DILLE(WV) POST OFC	55-2196	ASOC OFC	(11)	2
DIXIE(WV) POST OFC	55-2220	ASOC OFC	(13)	2
DOROTHY(WV) POST OFC	55-2238	ASOC OFC	(11)	2
DOTHAN(WV) POST OFC	55-2244	ASOC OFC	(E)	2
DRENNEN(WV) POST OFC	55-2256	ASOC OFC	(11)	2
DRY CREEK(WV) POST OFC	55-2274	ASOC OFC	(11)	2
DRYBRANCH(WV) POST OFC	55-2268	ASOC OFC	(11)	2
DUCK(WV) POST OFC	55-2286	ASOC OFC	(15)	2
DUNBAR(WV) POST OFC	55-2304	ASOC OFC	(20/1-SUPV)	19
EAST BANK(WV) POST OFC	55-2358	ASOC OFC	(13)	2
ECCLES(WV) POST OFC	55-2394	ASOC OFC	(13)	2
EDMOND(WV) POST OFC	55-2412	ASOC OFC	(11)	2
ELEANOR(WV) POST OFC	55-2454	ASOC OFC	(15)	3
ELKVIEW(WV) POST OFC	55-2502	ASOC OFC	(18)	12
ELMIRA(WV) POST OFC	55-2532	ASOC OFC	(C)	2
ELTON(WV) POST OFC	55-2544	ASOC OFC	(E)	2
ESKDALE(WV) POST OFC	55-2622	ASOC OFC	(11)	2
ETHEL(WV) POST OFC	55-2634	ASOC OFC	(11)	2
EVANS(WV) POST OFC	55-2658	ASOC OFC	(13)	2
EXCHANGE(WV) POST OFC	55-2676	ASOC OFC	(11)	2
FAIRDALE(WV) POST OFC	55-2688	ASOC OFC	(13)	2
FALLING ROCK(WV) POST OFC	55-2712	ASOC OFC	(11)	2
FALLS MILL(WV) POST OFC	55-2724	ASOC OFC	(C)	2
FAYETTEVILLE(WV) POST OFC	55-2748	ASOC OFC	(18)	12
FLAT TOP(WV) POST OFC	55-2796	ASOC OFC	(11)	2
FLATWOODS(WV) POST OFC	55-2802	ASOC OFC	(13)	2
FOLA(WV) POST OFC	55-2826	ASOC OFC	(E)	2
FOSTER(WV) POST OFC	55-2886	ASOC OFC	(11)	2
FRAMETOWN(WV) POST OFC	55-2904	ASOC OFC	(13)	3
FRAZIERS BOTTOM(WV) POST OFC	55-2928	ASOC OFC	(13)	4
GALLAGHER(WV) POST OFC	55-2988	ASOC OFC	(11)	2
GANDEEVILLE(WV) POST OFC	55-3012	ASOC OFC	(11)	2
GASSAWAY(WV) POST OFC	55-3048	ASOC OFC	(18)	10
GAULEY BRIDGE(WV) POST OFC	55-3054	ASOC OFC	(13)	3
GAY(WV) POST OFC	55-3066	ASOC OFC	(11)	3
GHENT(WV) POST OFC	55-3090	ASOC OFC	(13)	2
GILBOA(WV) POST OFC	55-3108	ASOC OFC	(11)	2
GIVEN(WV) POST OFC	55-3138	ASOC OFC	(11)	2
GLASGOW(WV) POST OFC	55-3156	ASOC OFC	(13)	2
GLEN DANIEL(WV) POST OFC	55-3180	ASOC OFC	(13)	2
GLEN FERRIS(WV) POST OFC	55-3198	ASOC OFC	(E)	2
GLEN FORK(WV) POST OFC	55-3204	ASOC OFC	(11)	2
GLEN JEAN(WV) POST OFC	55-3222	ASOC OFC	(13)	2
GLEN MORGAN(WV) POST OFC	55-3228	ASOC OFC	(13)	2
GLEN ROGERS(WV) POST OFC	55-3234	ASOC OFC	(11)	2
GLEN WHITE(WV) POST OFC	55-3246	ASOC OFC	(11)	2
GLEN(WV) POST OFC	55-3162	ASOC OFC	(C)	2
GORDON(WV) POST OFC	55-3276	ASOC OFC	(11)	2
GREEN SULPHUR SPRINGS(WV) POST	55-3354	ASOC OFC	(E)	2
GRIMMS LANDING(WV) POST OFC	55-3396	ASOC OFC	(C)	2
HANDLEY(WV) POST OFC	55-3480	ASOC OFC	(11)	2
HANSFORD(WV) POST OFC	55-3498	ASOC OFC	(11)	2
HARPER(WV) POST OFC	55-3522	ASOC OFC	(11)	2
HARTFORD(WV) POST OFC	55-3546	ASOC OFC	(11)	2
HEATERS(WV) POST OFC	55-3612	ASOC OFC	(11)	2

INSTALLATION NAME	FINANCE NUMBR	ORGANIZATION TYPE	NAME	
HELEN(WV) POST OFC	55-3630	ASOC OFC (11)		2
HENDERSON(WV) POST OFC	55-3654	ASOC OFC (13)		2
HERNSHAW(WV) POST OFC	55-3696	ASOC OFC (11)		2
HEWETT(WV) POST OFC	55-3720	ASOC OFC (13)		2
HICO(WV) POST OFC	55-3732	ASOC OFC (13)		2
HILLTOP(WV) POST OFC	55-3762	ASOC OFC (11)		2
HINES(WV) POST OFC	55-3768	ASOC OFC (11)		2
HINTON(WV) POST OFC	55-3774	ASOC OFC (18)		14
HOMETOWN(WV) POST OFC	55-3813	ASOC OFC (11)		2
HUGHESTON(WV) POST OFC	55-3870	ASOC OFC (11)		2
INDORE(WV) POST OFC	55-3978	ASOC OFC (11)		2
INSTITUTE(WV) POST OFC	55-4008	ASOC OFC (15)		2
IVYDALE(WV) POST OFC	55-4050	ASOC OFC (11)		2
JEFFREY(WV) POST OFC	55-4068	ASOC OFC (11)		2
JODIE(WV) POST OFC	55-4116	ASOC OFC (11)		2
JONBEN(WV) POST OFC	55-4134	ASOC OFC (E)		2
JOSEPHINE(WV) POST OFC	55-4158	ASOC OFC (11)		2
JUMPING BRANCH(WV) POST OFC	55-4182	ASOC OFC (13)		2
KANAWHA FALLS(WV) POST OFC	55-4206	ASOC OFC (C)		2
KENNA(WV) POST OFC	55-4272	ASOC OFC (13)		4
KESLERS CROSS LANES(WV) POST O	55-4302	ASOC OFC (E)		2
KILSYTH(WV) POST OFC	55-4362	ASOC OFC (11)		2
KIMBERLY(WV) POST OFC	55-4374	ASOC OFC (13)		2
KINCAID(WV) POST OFC	55-4380	ASOC OFC (11)		2
KINGSTON(WV) POST OFC	55-4398	ASOC OFC (E)		2
LAKE(WV) POST OFC	55-4482	ASOC OFC (11)		2
LAKIN(WV) POST OFC	55-4488	ASOC OFC (11)		2
LANARK(WV) POST OFC	55-4500	ASOC OFC (11)		2
LANSING(WV) POST OFC	55-4536	ASOC OFC (11)		2
LAYLAND(WV) POST OFC	55-4590	ASOC OFC (11)		2
LE ROY(WV) POST OFC	55-4674	ASOC OFC (13)		4
LEEWOOD(WV) POST OFC	55-4620	ASOC OFC (11)		2
LEFT HAND(WV) POST OFC	55-4626	ASOC OFC (11)		2
LEIVASY(WV) POST OFC	55-4644	ASOC OFC (11)		2
LEON(WV) POST OFC	55-4656	ASOC OFC (15)	EXEMPT	7
LERONA(WV) POST OFC	55-4668	ASOC OFC (11)		2
LESLIE(WV) POST OFC	55-4686	ASOC OFC (11)		2
LESTER(WV) POST OFC	55-4692	ASOC OFC (13)		2
LEWART(WV) POST OFC	55-4698	ASOC OFC (13)	EXEMPT	6
LETTER GAP(WV) POST OFC	55-4710	ASOC OFC (C)		2
LIBERTY(WV) POST OFC	55-4734	ASOC OFC (13)		4
LINDEN(WV) POST OFC	55-4758	ASOC OFC (C)		1
LITTLE BIRCH(WV) POST OFC	55-4782	ASOC OFC (11)		2
LIZEMORES(WV) POST OFC	55-4812	ASOC OFC (11)		2
LOCHGELLY(WV) POST OFC	55-4830	ASOC OFC (11)		2
LOCKBRIDGE(WV) POST OFC	55-4836	ASOC OFC (C)		2
LOCKNEY(WV) POST OFC	55-4842	ASOC OFC (C)		2
LONDON(WV) POST OFC	55-4860	ASOC OFC (11)		2
LONG BRANCH(WV) POST OFC	55-4872	ASOC OFC (11)		2
LOOKOUT(WV) POST OFC	55-4884	ASOC OFC (11)		2
LOONEYVILLE(WV) POST OFC	55-4890	ASOC OFC (11)		2
MADEN(WV) POST OFC	55-5028	ASOC OFC (11)		2
MABSCOTT(WV) POST OFC	55-5040	ASOC OFC (13)		3
MAC ARTHUR(WV) POST OFC	55-5046	ASOC OFC (13)		2
MADISON(WV) POST OFC	55-5076	ASOC OFC (18)		8
MAHAN(WV) POST OFC	55-5082	ASOC OFC (B)		2
MAMMOTH(WV) POST OFC	55-5118	ASOC OFC (11)		2
MAPLEWOOD(WV) POST OFC	55-5148	ASOC OFC (E)		2
MASON(WV) POST OFC	55-5226	ASOC OFC (13)		3
MAYSEL(WV) POST OFC	55-5286	ASOC OFC (11)		2
MCGRAWS(WV) POST OFC	55-4998	ASOC OFC (13)		2
MEAD(WV) POST OFC	55-5298	ASOC OFC (C)		1
MEADOW BRIDGE(WV) POST OFC	55-5316	ASOC OFC (15)		4
MEADOW CREEK(WV) POST OFC	55-5328	ASOC OFC (E)		2
MIAMI(WV) POST OFC	55-5370	ASOC OFC (11)		2
MIDWAY(WV) POST OFC	55-5388	ASOC OFC (13)		2
MILLSTONE(WV) POST OFC	55-5424	ASOC OFC (11)		2
MILLWOOD(WV) POST OFC	55-5436	ASOC OFC (11)		2
MINDEN(WV) POST OFC	55-5454	ASOC OFC (13)		2
MONTCOAL(WV) POST OFC	55-5532	ASOC OFC (11)		2
MONTGOMERY(WV) POST OFC	55-5544	ASOC OFC (18)		11
MOUNT ALTO(WV) POST OFC	55-5604	ASOC OFC (E)		2
MOUNT CARBON(WV) POST OFC	55-5610	ASOC OFC (11)		2
MOUNT HOPE(WV) POST OFC	55-5628	ASOC OFC (18)		10
MOUNT LOOKOUT(WV) POST OFC	55-5634	ASOC OFC (11)		2
MOUNT NEBO(WV) POST OFC	55-5640	ASOC OFC (13)		2

INSTALLATION NAME	FINANCE NUMBR	ORGANIZATION TYPE	NAME	
BULLENS(WV) POST OFC	55-6694	ASOC OFC (18)		7
NALLEN(WV) POST OFC	55-5724	ASOC OFC (11)		2
NAOMA(WV) POST OFC	55-5730	ASOC OFC (13)		2
NAPIER(WV) POST OFC	55-5736	ASOC OFC (C)		2
NEBO(WV) POST OFC	55-5748	ASOC OFC (E)		2
NELLIS(WV) POST OFC	55-5760	ASOC OFC (11)		2
NETTIE(WV) POST OFC	55-5784	ASOC OFC (13)		2
NEW HAVEN(WV) POST OFC	55-5838	ASOC OFC (15)		3
NEWTON(WV) POST OFC	55-5862	ASOC OFC (11)		2
NICUT(WV) POST OFC	55-5880	ASOC OFC (E)		2
NIMITZ(WV) POST OFC	55-5886	ASOC OFC (11)		2
NITRO(WV) POST OFC	55-5892	ASOC OFC (20/1-SUPV)		17
NORMANTOWN(WV) POST OFC	55-5910	ASOC OFC (11)		2
OAK HILL(WV) POST OFC	55-5976	ASOC OFC (20/1-SUPV)		19
ODD(WV) POST OFC	55-6006	ASOC OFC (11)		2
OMLEY(WV) POST OFC	55-6012	ASOC OFC (11)		2
ORGAS(WV) POST OFC	55-6084	ASOC OFC (11)		2
ORMA(WV) POST OFC	55-6102	ASOC OFC (11)		2
OTTAWA(WV) POST OFC	55-6132	ASOC OFC (11)		2
OVAPA(WV) POST OFC	55-6144	ASOC OFC (E)		2
PAGE(WV) POST OFC	55-6174	ASOC OFC (11)		2
PAX(WV) POST OFC	55-6240	ASOC OFC (11)		2
PEMBERTON(WV) POST OFC	55-6264	ASOC OFC (11)		2
PERKINS(WV) POST OFC	55-6288	ASOC OFC (B)		2
PEYTONA(WV) POST OFC	55-6336	ASOC OFC (11)		2
PINCH(WV) POST OFC	55-6396	ASOC OFC (13)		2
PINEY VIEW(WV) POST OFC	55-6432	ASOC OFC (13)		2
PIPESTEM(WV) POST OFC	55-6450	ASOC OFC (11)		2
PLINY(WV) POST OFC	55-6468	ASOC OFC (11)		4
POCA(WV) POST OFC	55-6480	ASOC OFC (15)	EXEMPT	5
POE(WV) POST OFC	55-6486	ASOC OFC (11)		1
PUNO GAP(WV) POST OFC	55-6504	ASOC OFC (11)		2
POOL(WV) POST OFC	55-6510	ASOC OFC (C)		2
POWELLTON(WV) POST OFC	55-6540	ASOC OFC (13)		2
PRATT(WV) POST OFC	55-6558	ASOC OFC (13)		2
PRENTER(WV) POST OFC	55-6570	ASOC OFC (11)		2
PRINCE(WV) POST OFC	55-6588	ASOC OFC (E)		2
PRINCEWICK(WV) POST OFC	55-6600	ASOC OFC (11)		2
PROCIOUS(WV) POST OFC	55-6606	ASOC OFC (11)		2
PROSPERITY(WV) POST OFC	55-6618	ASOC OFC (13)		2
QUINNIMONT(WV) POST OFC	55-6690	ASOC OFC (C)		2
QUINWOOD(WV) POST OFC	55-6696	ASOC OFC (13)		2
RACINE(WV) POST OFC	55-6708	ASOC OFC (13)		2
RAINELLE(WV) POST OFC	55-6726	ASOC OFC (18)		7
RALEIGH(WV) POST OFC	55-6732	ASOC OFC (11)		2
RAMSEY(WV) POST OFC	55-6744	ASOC OFC (C)		3
RAVENCLIFF(WV) POST OFC	55-6774	ASOC OFC (11)		2
RED HOUSE(WV) POST OFC	55-6822	ASOC OFC (15)		4
REDSTAR(WV) POST OFC	55-6834	ASOC OFC (E)		2
REEDY(WV) POST OFC	55-6858	ASOC OFC (13)		4
RHODELL(WV) POST OFC	55-6900	ASOC OFC (13)		2
RIDGEVIEW(WV) POST OFC	55-6930	ASOC OFC (11)		2
RIPLEY(WV) POST OFC	55-6972	ASOC OFC (18)		14
ROBERTSBURG(WV) POST OFC	55-7020	ASOC OFC (13)		2
ROBSON(WV) POST OFC	55-7032	ASOC OFC (11)		2
ROCK CASTLE(WV) POST OFC	55-7050	ASOC OFC (A)		2
ROCK CREEK(WV) POST OFC	55-7062	ASOC OFC (11)		2
ROSEDALE(WV) POST OFC	55-7128	ASOC OFC (11)		2
RUPERT(WV) POST OFC	55-7170	ASOC OFC (15)		2
SABINE(WV) POST OFC	55-7188	ASOC OFC (11)		2
SAINT ALBANS(WV) POST OFC	55-7206	ASOC OFC (21/2-SUPV)		50
SANDSTONE(WV) POST OFC	55-7272	ASOC OFC (11)		2
SANDYVILLE(WV) POST OFC	55-7278	ASOC OFC (15)	EXEMPT	6
SAXON(WV) POST OFC	55-7314	ASOC OFC (C)		2
SCARBRO(WV) POST OFC	55-7320	ASOC OFC (15)		4
SETH(WV) POST OFC	55-7362	ASOC OFC (13)		2
SHADY SPRING(WV) POST OFC	55-7374	ASOC OFC (15)		3
SHARON(WV) POST OFC	55-7386	ASOC OFC (11)		2
SHARPLES(WV) POST OFC	55-7392	ASOC OFC (11)		2
SHUCK(WV) POST OFC	55-7452	ASOC OFC (C)		2
SKELTON(WV) POST OFC	55-7530	ASOC OFC (13)		1
SLAB FORK(WV) POST OFC	55-7542	ASOC OFC (11)		2
SMITHERS(WV) POST OFC	55-7584	ASOC OFC (13)		2
SOPHIA(WV) POST OFC	55-7620	ASOC OFC (15)		2
SOUTHSIDE(WV) POST OFC	55-7626	ASOC OFC (11)		4
SPANISHBURG(WV) POST OFC	55-7632	ASOC OFC (11)		2
SPENCER(WV) POST OFC	55-7656	ASOC OFC (18)		16

INSTALLATION NAME	FINANCE NUMBR	ORGANIZATION TYPE	NAME	
SPRING DALE(WV) POST OFC	55-7680	ASOC OFC (11)		2
STANAFORD(WV) POST OFC	55-7716	ASOC OFC (13)		2
STATTS MILLS(WV) POST OFC	55-7734	ASOC OFC (C)		2
STEPHENSON(WV) POST OFC	55-7746	ASOC OFC (11)		2
STRANGE CREEK(WV) POST OFC	55-7812	ASOC OFC (11)		2
STUMPTOWN(WV) POST OFC	55-7824	ASOC OFC (E)		2
SUMMERLEE(WV) POST OFC	55-7854	ASOC OFC (E)		2
SUMMERSVILLE(WV) POST OFC	55-7860	ASOC OFC (18)		17
SUNDIAL(WV) POST OFC	55-7872	ASOC OFC (11)		2
SURVEYOR(WV) POST OFC	55-7890	ASOC OFC (11)		2
SUTTON(WV) POST OFC	55-7896	ASOC OFC (18)		8
SWISS(WV) POST OFC	55-7920	ASOC OFC (11)		2
SYLVESTER(WV) POST OFC	55-7944	ASOC OFC (11)		2
TAD(WV) POST OFC	55-7950	ASOC OFC (11)		2
TARIFF(WV) POST OFC	55-8004	ASOC OFC (E)		2
TERRY(WV) POST OFC	55-8031	ASOC OFC (C)		2
THURMOND(WV) POST OFC	55-8094	ASOC OFC (E)		2
TIOGA(WV) POST OFC	55-8106	ASOC OFC (11)		2
TORNADO(WV) POST OFC	55-8118	ASOC OFC (13)		2
TRUE(WV) POST OFC	55-8148	ASOC OFC (E)		2
TURTLE CREEK(WV) POST OFC	55-8160	ASOC OFC (11)		2
TWILIGHT(WV) POST OFC	55-8166	ASOC OFC (11)		2
UNEEDA(WV) POST OFC	55-8190	ASOC OFC (11)		2
VALLEY FORK(WV) POST OFC	55-8262	ASOC OFC (E)		2
VAN(WV) POST OFC	55-8286	ASOC OFC (13)		2
VICTOR(WV) POST OFC	55-8334	ASOC OFC (13)		2
WALLBACK(WV) POST OFC	55-8400	ASOC OFC (C)		2
WALTON(WV) POST OFC	55-8406	ASOC OFC (13)		4
WEST COLUMBIA(WV) POST OFC	55-8538	ASOC OFC (13)		2
WHARTON(WV) POST OFC	55-8586	ASOC OFC (11)		2
WHITE OAK(WV) POST OFC	55-8628	ASOC OFC (11)		2
WHITESVILLE(WV) POST OFC	55-8646	ASOC OFC (15)		3
WIDEN(WV) POST OFC	55-8682	ASOC OFC (E)		2
WILSIE(WV) POST OFC	55-8778	ASOC OFC (C)		2
WINFIELD(WV) POST OFC	55-8826	ASOC OFC (15)	EXEMPT	7
WINIFREDE(WV) POST OFC	55-8832	ASOC OFC (13)		2
WINONA(WV) POST OFC	55-8838	ASOC OFC (11)		2
WYCO(WV) POST OFC	55-8910	ASOC OFC (C)		2
	INSTALLATION TYPE TOTAL ===>			1029
	MSC AREA TOTAL ===>			1861
BLUEFIELD MSC AREA				
BLUEFIELD MGT SEC CTR	55-0882	MSC-III		131
	INSTALLATION TYPE TOTAL ===>			131
ACCOVILLE(WV) POST OFC	55-0024	ASOC OFC (13)		2
ALDERSON(WV) POST OFC	55-0078	ASOC OFC (15)	EXEMPT	8
ALKOL(WV) POST OFC	55-0096	ASOC OFC (13)		2
ALPOCA(WV) POST OFC	55-0132	ASOC OFC (E)		2
AMHERSTDALE(WV) POST OFC	55-0186	ASOC OFC (13)		2
AMONATE(VA) POST OFC	51-0222	ASOC OFC (11)		2
ANAWALT(WV) POST OFC	55-0204	ASOC OFC (13)		2
APPLE GROVE(WV) POST OFC	55-0252	ASOC OFC (13)		4
ARBOVALE(WV) POST OFC	55-0258	ASOC OFC (11)		2
ASBURY(WV) POST OFC	55-0330	ASOC OFC (11)		2
ASHLAND(WV) POST OFC	55-0348	ASOC OFC (11)		2
ASHTON(WV) POST OFC	55-0360	ASOC OFC (11)		2
ATHENS(WV) POST OFC	55-0366	ASOC OFC (15)		3
AUTO(WV) POST OFC	55-0390	ASOC OFC (B)		2
AVONDALE(WV) POST OFC	55-0396	ASOC OFC (11)		2
BAISDEN(WV) POST OFC	55-0408	ASOC OFC (13)		2
BALLARD(WV) POST OFC	55-0438	ASOC OFC (13)		2
BALLENGEE(WV) POST OFC	55-0444	ASOC OFC (C)		2
BANDY(VA) POST OFC	51-0480	ASOC OFC (13)		4
BARBOURSVILLE(WV) POST OFC	55-0468	ASOC OFC (20/1-SUPV)		19
BARTLEY(WV) POST OFC	55-0498	ASOC OFC (11)		2
BARTOW(WV) POST OFC	55-0504	ASOC OFC (11)		2
BEESON(WV) POST OFC	55-0600	ASOC OFC (E)		2
BERWIND(WV) POST OFC	55-0714	ASOC OFC (11)		2
BIG CREEK(WV) POST OFC	55-0762	ASOC OFC (11)		2
BIG ROCK(VA) POST OFC	51-0798	ASOC OFC (13)		2
BIG SANDY(WV) POST OFC	55-0786	ASOC OFC (11)		2
BISHOP(VA) POST OFC	51-0834	ASOC OFC (11)		2

INSTALLATION NAME	FINANCE NUMBR	ORGANIZATION TYPE	NAME	
BLUEFIELD(VA) POST OFC	51-0912	ASOC OFC (18)		18
BOISSEVAIN(VA) POST OFC	51-0948	ASOC OFC (11)		2
BORDERLAND(WV) POST OFC	55-0966	ASOC OFC (11)		2
BOZOO(WV) POST OFC	55-0984	ASOC OFC (11)		2
BRADSHAW(WV) POST OFC	55-0996	ASOC OFC (13)		3
BRAMWELL(WV) POST OFC	55-1008	ASOC OFC (11)		2
BRANCHLAND(WV) POST OFC	55-1014	ASOC OFC (15)	EXEMPT	9
BREAKS(VA) POST OFC	51-1080	ASOC OFC (11)		2
BREEDEN(WV) POST OFC	55-1038	ASOC OFC (11)		2
BRENTON(WV) POST OFC	55-1044	ASOC OFC (13)		2
BRUNO(WV) POST OFC	55-1113	ASOC OFC (11)		2
BUCKEYE(WV) POST OFC	55-1122	ASOC OFC (11)		2
BUD(WV) POST OFC	55-1134	ASOC OFC (11)		2
CALDWELL(WV) POST OFC	55-1212	ASOC OFC (11)		2
CANEBRAKE(WV) POST OFC	55-1266	ASOC OFC (11)		2
CAPELS(WV) POST OFC	55-1290	ASOC OFC (11)		2
CARETTA(WV) POST OFC	55-1332	ASOC OFC (11)		2
CASS(WV) POST OFC	55-1368	ASOC OFC (11)		10
CEDAR BLUFF(VA) POST OFC	51-1620	ASOC OFC (18)		4
CEREDO(WV) POST OFC	55-1440	ASOC OFC (15)		9
CHAPMANVILLE(WV) POST OFC	55-1452	ASOC OFC (18)		2
CHATTAROY(WV) POST OFC	55-1482	ASOC OFC (13)		2
CHAUNCEY(WV) POST OFC	55-1488	ASOC OFC (11)		2
CLEAR FORK(WV) POST OFC	55-1596	ASOC OFC (11)		2
CLINTONVILLE(WV) POST OFC	55-1644	ASOC OFC (11)		2
COAL MOUNTAIN(WV) POST OFC	55-1698	ASOC OFC (11)		2
COALWOOD(WV) POST OFC	55-1710	ASOC OFC (13)		2
COBA(WV) POST OFC	55-1788	ASOC OFC (13)		2
COVELL(WV) POST OFC	55-1878	ASOC OFC (11)		2
CRAWLEY(WV) POST OFC	55-1920	ASOC OFC (11)		2
CRUM(WV) POST OFC	55-1980	ASOC OFC (13)		2
CRUMPLER(WV) POST OFC	55-1986	ASOC OFC (11)		2
CUCUMBER(WV) POST OFC	55-1998	ASOC OFC (E)		2
CULLODEN(WV) POST OFC	55-2004	ASOC OFC (15)	EXEMPT	6
CYCLONE(WV) POST OFC	55-2046	ASOC OFC (13)		2
DAVIN(WV) POST OFC	55-2094	ASOC OFC (13)		2
DAVY(WV) POST OFC	55-2112	ASOC OFC (13)		2
DELBARTON(WV) POST OFC	55-2160	ASOC OFC (15)	EXEMPT	7
DINGESS(WV) POST OFC	55-2202	ASOC OFC (13)		2
DORAN(VA) POST OFC	51-2598	ASOC OFC (13)		2
DUNLOW(WV) POST OFC	55-2322	ASOC OFC (13)		4
DUNMORE(WV) POST OFC	55-2328	ASOC OFC (11)		4
EAST LYNN(WV) POST OFC	55-2376	ASOC OFC (13)		3
ECKMAN(WV) POST OFC	55-2400	ASOC OFC (11)		2
EDGARTON(WV) POST OFC	55-2406	ASOC OFC (11)		2
ELBERT(WV) POST OFC	55-2448	ASOC OFC (11)		2
ELKHORN(WV) POST OFC	55-2478	ASOC OFC (11)		2
EMMETT(WV) POST OFC	55-2556	ASOC OFC (C)		2
ENGLISH(WV) POST OFC	55-2586	ASOC OFC (11)		2
FALLS MILLS(VA) POST OFC	51-3132	ASOC OFC (13)		2
FANROCK(WV) POST OFC	55-2730	ASOC OFC (11)		2
FILBERT(WV) POST OFC	55-2772	ASOC OFC (A)		2
FOREST HILL(WV) POST OFC	55-2844	ASOC OFC (11)		2
FORT GAY(WV) POST OFC	55-2862	ASOC OFC (15)	EXEMPT	6
FORT SPRING(WV) POST OFC	55-2880	ASOC OFC (11)		2
FRANKFORD(WV) POST OFC	55-2916	ASOC OFC (13)		2
FREEMAN(WV) POST OFC	55-2940	ASOC OFC (13)		2
FRIARS HILL(WV) POST OFC	55-2958	ASOC OFC (B)		2
GALLIPOLIS FERRY(WV) POST OFC	55-2994	ASOC OFC (13)		5
GAP MILLS(WV) POST OFC	55-3018	ASOC OFC (13)		4
GARY(WV) POST OFC	55-3042	ASOC OFC (13)		2
GENOA(WV) POST OFC	55-3078	ASOC OFC (13)		4
GILBERT(WV) POST OFC	55-3102	ASOC OFC (15)		2
GLADE(WV) POST OFC	55-3144	ASOC OFC (A)		2
GLENHAVES(WV) POST OFC	55-3216	ASOC OFC (A)		2
GLENWOOD(WV) POST OFC	55-3252	ASOC OFC (13)		3
GRASSY MEADOWS(WV) POST OFC	55-3318	ASOC OFC (C)		2
GREEN BANK(WV) POST OFC	55-3336	ASOC OFC (11)		2
GREENVILLE(WV) POST OFC	55-3366	ASOC OFC (11)		2
GRIFFITHSVILLE(WV) POST OFC	55-3390	ASOC OFC (13)		2
GRUNDY(VA) POST OFC	51-3870	ASOC OFC (18)		17
HAMLIN(WV) POST OFC	55-3456	ASOC OFC (18)		8
HAMPDEN(WV) POST OFC	55-3468	ASOC OFC (11)		2
HANOVER(WV) POST OFC	55-3492	ASOC OFC (13)		2
HARMAN(VA) POST OFC	51-4038	ASOC OFC (11)		2
HARTS(WV) POST OFC	55-3552	ASOC OFC (15)	EXEMPT	7
HAVACO(WV) POST OFC	55-3576	ASOC OFC (E)		2

INSTALLATION NAME	FINANCE NUMBR	ORGANIZATION TYPE	NAME	
HEMPHILL(WV) POST OFC	55-3648	ASOC OFC (11)		2
HENLAWSON(WV) POST OFC	55-3666	ASOC OFC (11)		2
HENSLEY(WV) POST OFC	55-3672	ASOC OFC (11)		2
HERNDON(WV) POST OFC	55-3684	ASOC OFC (13)		2
HIAWATHA(WV) POST OFC	55-3726	ASOC OFC (E)		2
HILLSBORO(WV) POST OFC	55-3756	ASOC OFC (13)		2
HOLDEN(WV) POST OFC	55-3798	ASOC OFC (15)		3
HORSEPEN(VA) POST OFC	51-4404	ASOC OFC (11)		2
HUNTINGTON(WV) POST OFC	55-3894	ASOC OFC-F (24)		278
HURLEY(VA) POST OFC	51-4476	ASOC OFC (15)		2
HURRICANE(WV) POST OFC	55-3908	ASOC OFC (20/1-SUPV)		22
IAEGER(WV) POST OFC	55-3936	ASOC OFC (15)		3
IKES FORK(WV) POST OFC	55-3948	ASOC OFC (11)		2
ISABAN(WV) POST OFC	55-4032	ASOC OFC (11)		2
ITMANN(WV) POST OFC	55-4038	ASOC OFC (11)		2
JENKINJONES(WV) POST OFC	55-4074	ASOC OFC (11)		3
JESSE(WV) POST OFC	55-4092	ASOC OFC (11)		2
JEWELL RIDGE(VA) POST OFC	51-4734	ASOC OFC (13)		2
JOLO(WV) POST OFC	55-4128	ASOC OFC (13)		2
JULIAN(WV) POST OFC	55-4176	ASOC OFC (11)		2
JUSTICE(WV) POST OFC	55-4200	ASOC OFC (13)		3
KEEN MOUNTAIN(VA) POST OFC	51-4806	ASOC OFC (11)		2
KEGLEY(WV) POST OFC	55-4254	ASOC OFC (11)		2
KELLYSVILLE(WV) POST OFC	55-4266	ASOC OFC (E)		2
KENOVA(WV) POST OFC	55-4278	ASOC OFC (18)		9
KERMIT(WV) POST OFC	55-4296	ASOC OFC (15)	EXEMPT	5
KEYSTONE(WV) POST OFC	55-4338	ASOC OFC (13)		1
KIAHSVILLE(WV) POST OFC	55-4344	ASOC OFC (E)		2
KIEFFER(WV) POST OFC	55-4350	ASOC OFC (C)		2
KIMBALL(WV) POST OFC	55-4368	ASOC OFC (15)		2
KISTLER(WV) POST OFC	55-4422	ASOC OFC (11)		2
KOPPERSTON(WV) POST OFC	55-4446	ASOC OFC (13)		2
KYLE(WV) POST OFC	55-4458	ASOC OFC (E)		2
LASHMEET(WV) POST OFC	55-4554	ASOC OFC (13)		2
LAVALETTE(WV) POST OFC	55-4572	ASOC OFC (15)		3
LECKIE(WV) POST OFC	55-4602	ASOC OFC (E)		2
LENORE(WV) POST OFC	55-4650	ASOC OFC (13)		1
LESAGE(WV) POST OFC	55-4680	ASOC OFC (15)		4
LEWISBURG(WV) POST OFC	55-4722	ASOC OFC (20/1-SUPV)		29
LINDSIDE(WV) POST OFC	55-4764	ASOC OFC (13)		4
LOGAN(WV) POST OFC	55-4854	ASOC OFC (20/1-SUPV)		15
LORADO(WV) POST OFC	55-4896	ASOC OFC (11)		2
LUNDALE(WV) POST OFC	55-4950	ASOC OFC (11)		2
LYBURN(WV) POST OFC	55-4958	ASOC OFC (11)		2
LYNCO(WV) POST OFC	55-4962	ASOC OFC (13)		2
MALLORY(WV) POST OFC	55-5112	ASOC OFC (11)		2
MAN(WV) POST OFC	55-5124	ASOC OFC (15)	EXEMPT	4
MARLINTON(WV) POST OFC	55-5184	ASOC OFC (18)		10
MATEWAN(WV) POST OFC	55-5238	ASOC OFC (13)		3
MATHENY(WV) POST OFC	55-5241	ASOC OFC (13)		2
MATOAKA(WV) POST OFC	55-5250	ASOC OFC (15)		4
MAVISDALE(VA) POST OFC	51-5718	ASOC OFC (11)		2
MAXIE(VA) POST OFC	51-5724	ASOC OFC (11)		2
MAXWELTON(WV) POST OFC	55-5268	ASOC OFC (11)		2
MAYBERRY(WV) POST OFC	55-5274	ASOC OFC (11)		2
MCCOMAS(WV) POST OFC	55-4974	ASOC OFC (11)		2
MCCONNELL(WV) POST OFC	55-4980	ASOC OFC (11)		1
MEADOR(WV) POST OFC	55-5304	ASOC OFC (11)		2
MEADOW BLUFF(WV) POST OFC	55-5310	ASOC OFC (C)		2
MEDKIFF(WV) POST OFC	55-5382	ASOC OFC (11)		2
MILL POINT(WV) POST OFC	55-5418	ASOC OFC (C)		2
MILTON(WV) POST OFC	55-5448	ASOC OFC (18)		13
MOCAWK(WV) POST OFC	55-5496	ASOC OFC (11)		2
MONAVILLE(WV) POST OFC	55-5514	ASOC OFC (11)		2
MONTCALM(WV) POST OFC	55-5526	ASOC OFC (13)		2
MOUNT GAY(WV) POST OFC	55-5622	ASOC OFC (15)		2
MYRA(WV) POST OFC	55-5712	ASOC OFC (C)		2
MYRTLE(WV) POST OFC	55-5718	ASOC OFC (11)		2
NAUGATUCK(WV) POST OFC	55-5742	ASOC OFC (13)		2
NEMOURS(WV) POST OFC	55-5766	ASOC OFC (11)		2
NEW RICHMOND(WV) POST OFC	55-5856	ASOC OFC (11)		1
NEWHALL(WV) POST OFC	55-5832	ASOC OFC (11)		2
NEWTOWN(WV) POST OFC	55-5868	ASOC OFC (11)		2
NOLAN(WV) POST OFC	55-5904	ASOC OFC (11)		2
NORTH MATEWAN(WV) POST OFC	55-5928	ASOC OFC (13)		2
NORTH SPRING(WV) POST OFC	55-5946	ASOC OFC (11)		2
NORTH TAZEWELL(VA) POST OFC	51-6564	ASOC OFC (18)		9

INSTALLATION NAME	FINANCE NUMBR	ORGANIZATION TYPE	NAME	
NORTHFORK(WV) POST OFC	55-5922	ASOC OFC (13)		3
OAKWOOD(VA) POST OFC	51-6660	ASOC OFC (15)		2
OCEANA(WV) POST OFC	55-6000	ASOC OFC (15)		3
OMAR(WV) POST OFC	55-6048	ASOC OFC (13)		2
ONA(WV) POST OFC	55-6060	ASOC OFC (15)	EXEMPT	8
PAGETON(WV) POST OFC	55-6180	ASOC OFC (11)		2
PALERMO(WV) POST OFC	55-6186	ASOC OFC (E)		2
PANTHER(WV) POST OFC	55-6198	ASOC OFC (13)		2
PAYNESVILLE(WV) POST OFC	55-6246	ASOC OFC (11)		2
PEACH CREEK(WV) POST OFC	55-6252	ASOC OFC (11)		2
PECKS MILL(WV) POST OFC	55-6258	ASOC OFC (13)		2
PENCE SPRINGS(WV) POST OFC	55-6270	ASOC OFC (E)		2
PETERSTOWN(WV) POST OFC	55-6312	ASOC OFC (15)	EXEMPT	4
PILGRIMS KNOB(VA) POST OFC	51-7128	ASOC OFC (11)		2
PINEVILLE(WV) POST OFC	55-6420	ASOC OFC (15)	EXEMPT	6
POCAHONTAS(VA) POST OFC	51-7182	ASOC OFC (13)		2
POINT PLEASANT(WV) POST OFC	55-6492	ASOC OFC (20/1-SUPV)		19
POUNDING MILL(VA) POST OFC	51-7266	ASOC OFC (13)		4
POWHATAN(WV) POST OFC	55-6552	ASOC OFC (11)		2
PREMIER(WV) POST OFC	55-6564	ASOC OFC (11)		2
PRICHARD(WV) POST OFC	55-6582	ASOC OFC (13)		4
PRINCETON(WV) POST OFC	55-6594	ASOC OFC (21/1-SUPV)		43
RAGLAND(WV) POST OFC	55-6720	ASOC OFC (11)		2
RANGER(WV) POST OFC	55-6756	ASOC OFC (13)		2
RAVEN(VA) POST OFC	51-7458	ASOC OFC (15)		5
RAWL(WV) POST OFC	55-6792	ASOC OFC (11)		2
RAYSAL(WV) POST OFC	55-6804	ASOC OFC (11)		2
RED ASH(VA) POST OFC	51-7482	ASOC OFC (11)		2
RED JACKET(WV) POST OFC	55-6828	ASOC OFC (13)		2
RENICK(WV) POST OFC	55-6864	ASOC OFC (15)		2
RICHLANDS(VA) POST OFC	51-7644	ASOC OFC (20/1-SUPV)		16
ROCK VIEW(WV) POST OFC	55-7092	ASOC OFC (11)		2
ROCK(WV) POST OFC	55-7038	ASOC OFC (15)	EXEMPT	6
RODERFIELD(WV) POST OFC	55-7098	ASOC OFC (13)		2
RONCEVERTE(WV) POST OFC	55-7116	ASOC OFC (18)		12
ROSSMORT(WV) POST OFC	55-7140	ASOC OFC (C)		1
ROWE(VA) POST OFC	51-7842	ASOC OFC (11)		2
SALT ROCK(WV) POST OFC	55-7236	ASOC OFC (15)		4
SARAH ANN(WV) POST OFC	55-7296	ASOC OFC (11)		2
SARTON(WV) POST OFC	55-7302	ASOC OFC (B)		2
SCOTT DEPOT(WV) POST OFC	55-7332	ASOC OFC (18)		10
SECONDCREEK(WV) POST OFC	55-7338	ASOC OFC (C)		2
SHOALS(WV) POST OFC	55-7446	ASOC OFC (11)		2
SIAS(WV) POST OFC	55-7470	ASOC OFC (E)		2
SIMON(WV) POST OFC	55-7494	ASOC OFC (11)		2
SINKS GROVE(WV) POST OFC	55-7506	ASOC OFC (13)		4
SAYGUSTY(WV) POST OFC	55-7536	ASOC OFC (E)		2
SMOOT(WV) POST OFC	55-7608	ASOC OFC (11)		2
SOD(WV) POST OFC	55-7614	ASOC OFC (13)		2
SPRIGG(WV) POST OFC	55-7668	ASOC OFC (E)		2
SPURLOCKVILLE(WV) POST OFC	55-7704	ASOC OFC (11)		2
SQUIRE(WV) POST OFC	55-7710	ASOC OFC (11)		2
STIRRAT(WV) POST OFC	55-7770	ASOC OFC (11)		2
STOLLINGS(WV) POST OFC	55-7776	ASOC OFC (13)		2
SUMMERCO(WV) POST OFC	55-7848	ASOC OFC (11)		2
SUPERIOR(WV) POST OFC	55-7878	ASOC OFC (E)		2
SWEET SPRINGS(WV) POST OFC	55-7914	ASOC OFC (11)		1
SWEETLAND(WV) POST OFC	55-7908	ASOC OFC (C)		2
SWITCHBACK(WV) POST OFC	55-7926	ASOC OFC (F)		2
SWITZER(WV) POST OFC	55-7932	ASOC OFC (13)		2
SWORDS CREEK(VA) POST OFC	51-8790	ASOC OFC (15)		4
TALCOTT(WV) POST OFC	55-7962	ASOC OFC (13)		2
TAPLIN(WV) POST OFC	55-7998	ASOC OFC (C)		2
TAZEWELL(VA) POST OFC	51-8886	ASOC OFC (18)		13
TEAYS(WV) POST OFC	55-8016	ASOC OFC (11)		2
THACKER(WV) POST OFC	55-8046	ASOC OFC (11)		2
THORPE(WV) POST OFC	55-8076	ASOC OFC (11)		2
TROUT(WV) POST OFC	55-8136	ASOC OFC (A)		2
TWIN BRANCH(WV) POST OFC	55-8172	ASOC OFC (11)		2
UNION(WV) POST OFC	55-8202	ASOC OFC (15)	EXEMPT	4
VANSANT(VA) POST OFC	51-9246	ASOC OFC (15)	EXEMPT	5
VARNEY(WV) POST OFC	55-8304	ASOC OFC (13)		2
VERDUNVILLE(WV) POST OFC	55-8316	ASOC OFC (13)		2
VERNER(WV) POST OFC	55-8322	ASOC OFC (11)		2
VIVIAN(WV) POST OFC	55-8346	ASOC OFC (C)		2
VULCAN(WV) POST OFC	55-8358	ASOC OFC (C)		2
WAITEVILLE(WV) POST OFC	55-8378	ASOC OFC (E)		2

INSTALLATION NAME	FINANCE NUMBR	ORGANIZATION TYPE	NAME	
WAR(WV) POST OFC	55-8424	ASOC OFC	(15)	2
WARRIORMINE(WV) POST OFC	55-8448	ASOC OFC	(11)	2
WAYNE(WV) POST OFC	55-8484	ASOC OFC	(18)	10
WAYSIDE(WV) POST OFC	55-8490	ASOC OFC	(E)	3
WELCH(WV) POST OFC	55-8514	ASOC OFC	(18)	12
WEST HAMLIN(WV) POST OFC	55-8544	ASOC OFC	(15)	5
WHARNCLIFFE(WV) POST OFC	55-8580	ASOC OFC	(11)	2
WHITE SULPHUR SPRINGS(WV) POST	55-8640	ASOC OFC	(18)	8
WHITEWOOD(VA) POST OFC	51-9730	ASOC OFC	(11)	2
WHITMAN(WV) POST OFC	55-8652	ASOC OFC	(13)	2
WILCOE(WV) POST OFC	55-8700	ASOC OFC	(11)	2
WILKINSON(WV) POST OFC	55-8724	ASOC OFC	(13)	2
WILLIAMSBURG(WV) POST OFC	55-8730	ASOC OFC	(11)	2
WILLIAMSON(WV) POST OFC	55-8742	ASOC OFC	(20/1-SUPV)	17
WILSONDALE(WV) POST OFC	55-8796	ASOC OFC	(E)	2
WOLF PEN(WV) POST OFC	55-8862	ASOC OFC	(11)	2
WOLFCREEK(WV) POST OFC	55-8850	ASOC OFC	(C)	2
WOLFF(WV) POST OFC	55-8856	ASOC OFC	(C)	2
WOLFORD(VA) POST OFC	51-9850	ASOC OFC	(11)	2
WOODVILLE(WV) POST OFC	55-8886	ASOC OFC	(11)	2
WORTH(WV) POST OFC	55-8892	ASOC OFC	(11)	2
WYOMING(WV) POST OFC	55-8922	ASOC OFC	(11)	2
YARDS(VA) POST OFC	51-9945	ASOC OFC	(C)	1
YAWKEY(WV) POST OFC	55-8928	ASOC OFC	(11)	2
YOLYN(WV) POST OFC	55-8940	ASOC OFC	(11)	2
YUKON(WV) POST OFC	55-8946	ASOC OFC	(11)	2
	INSTALLATION TYPE TOTAL ===>			1250
	MSC AREA TOTAL ===>			1381
CLARKSBURG MSC AREA				
CLARKSBURG MGT SEC CTR	55-1566	MSC-III		244
	INSTALLATION TYPE TOTAL ===>			244
ADRIAN(WV) POST OFC	55-0048	ASOC OFC	(11)	2
ALNA(WV) POST OFC	55-0120	ASOC OFC	(11)	1
ALUM BRIDGE(WV) POST OFC	55-0150	ASOC OFC	(11)	2
ALVY(WV) POST OFC	55-0168	ASOC OFC	(C)	2
ANMOORE(WV) POST OFC	55-0216	ASOC OFC	(13)	2
ARTHUR(WV) POST OFC	55-0312	ASOC OFC	(C)	2
ARTHURDALE(WV) POST OFC	55-0318	ASOC OFC	(13)	2
AUBURN(WV) POST OFC	55-0372	ASOC OFC	(11)	2
AUGUSTA(WV) POST OFC	55-0378	ASOC OFC	(15)	4
AURORA(WV) POST OFC	55-0384	ASOC OFC	(13)	4
BAKER(WV) POST OFC	55-0414	ASOC OFC	(13)	4
BARRACKVILLE(WV) POST OFC	55-0486	ASOC OFC	(15)	2
BAYARD(WV) POST OFC	55-0522	ASOC OFC	(11)	2
BELINGTON(WV) POST OFC	55-0612	ASOC OFC	(18)	7
BELLEVILLE(WV) POST OFC	55-0636	ASOC OFC	(13)	4
BELMONT(WV) POST OFC	55-0648	ASOC OFC	(13)	2
BENS RUN(WV) POST OFC	55-0672	ASOC OFC	(E)	2
BEREA(WV) POST OFC	55-0690	ASOC OFC	(A)	2
BERGOO(WV) POST OFC	55-0696	ASOC OFC	(C)	2
BERKELEY SPRINGS(WV) POST OFC	55-0702	ASOC OFC	(18)	15
BEVERLY(WV) POST OFC	55-0738	ASOC OFC	(15)	4
BIG RUN(WV) POST OFC	55-0760	ASOC OFC	(A)	2
BIG SPRINGS(WV) POST OFC	55-0792	ASOC OFC	(11)	2
BIGBEND(WV) POST OFC	55-0750	ASOC OFC	(13)	4
BLACKSVILLE(WV) POST OFC	55-0828	ASOC OFC	(13)	3
BLANDVILLE(WV) POST OFC	55-0852	ASOC OFC	(B)	2
BLOOMERY(WV) POST OFC	55-0858	ASOC OFC	(11)	2
BOGGS(WV) POST OFC	55-0918	ASOC OFC	(B)	2
BOOTH(WV) POST OFC	55-0960	ASOC OFC	(11)	2
BOWDEN(WV) POST OFC	55-0972	ASOC OFC	(11)	2
BRANDONVILLE(WV) POST OFC	55-1020	ASOC OFC	(B)	2
BRANDYWINE(WV) POST OFC	55-1026	ASOC OFC	(11)	2
BRETZ(WV) POST OFC	55-1050	ASOC OFC	(11)	2
BRIDGEPORT(WV) POST OFC	55-1056	ASOC OFC	(20/1-SUPV)	25
BRISTOL(WV) POST OFC	55-1062	ASOC OFC	(13)	4
BROHARD(WV) POST OFC	55-1068	ASOC OFC	(C)	2
BROWNTON(WV) POST OFC	55-1098	ASOC OFC	(11)	2
BRUCETON MILLS(WV) POST OFC	55-1110	ASOC OFC	(15) EXEMPT	8
BUCKHANNON(WV) POST OFC	55-1128	ASOC OFC	(21/2-SUPV)	47
BUNKER HILL(WV) POST OFC	55-1152	ASOC OFC	(15)	5
BURLINGTON(WV) POST OFC	55-1158	ASOC OFC	(13)	4

INSTALLATION NAME	FINANCE NUMBR	ORGANIZATION TYPE	NAME	
BURNSVILLE(WV) POST OFC	55-1170	ASOC OFC	(13)	2
BURTON(WV) POST OFC	55-1188	ASOC OFC	(11)	2
CABINS(WV) POST OFC	55-1200	ASOC OFC	(11)	2
CAIRO(WV) POST OFC	55-1206	ASOC OFC	(13)	6
CAMDEN ON GAULEY(WV) POST OFC	55-1230	ASOC OFC	(13)	2
CAMDEN(WV) POST OFC	55-1274	ASOC OFC	(11)	2
CAPON BRIDGE(WV) POST OFC	55-1296	ASOC OFC	(13)	2
CAPON SPRINGS(WV) POST OFC	55-1302	ASOC OFC	(11)	2
CAROLINA(WV) POST OFC	55-1350	ASOC OFC	(11)	2
CASSVILLE(WV) POST OFC	55-1386	ASOC OFC	(11)	2
CENTER POINT(WV) POST OFC	55-1416	ASOC OFC	(C)	2
CENTURY(WV) POST OFC	55-1434	ASOC OFC	(E)	2
CHARLES TOWN(WV) POST OFC	55-1464	ASOC OFC	(20/1-SUPV)	17
CIRCLEVILLE(WV) POST OFC	55-1560	ASOC OFC	(11)	2
COALTON(WV) POST OFC	55-1704	ASOC OFC	(11)	2
COLFAX(WV) POST OFC	55-1752	ASOC OFC	(11)	2
CORE(WV) POST OFC	55-1800	ASOC OFC	(11)	2
CORINTH(WV) POST OFC	55-1812	ASOC OFC	(11)	2
COTTLE(WV) POST OFC	55-1860	ASOC OFC	(13)	2
COWEN(WV) POST OFC	55-1884	ASOC OFC	(15)	3
COXS MILLS(WV) POST OFC	55-1890	ASOC OFC	(11)	4
CRAIGSVILLE(WV) POST OFC	55-1902	ASOC OFC	(15)	3
CRESTON(WV) POST OFC	55-1938	ASOC OFC	(11)	2
CUZZART(WV) POST OFC	55-2034	ASOC OFC	(B)	2
DAILEY(WV) POST OFC	55-2058	ASOC OFC	(11)	2
DAVIS(WV) POST OFC	55-2100	ASOC OFC	(15)	2
DAVISVILLE(WV) POST OFC	55-2106	ASOC OFC	(15)	4
DAWMONT(WV) POST OFC	55-2124	ASOC OFC	(E)	2
DELLSLOW(WV) POST OFC	55-2166	ASOC OFC	(13)	2
DELRAY(WV) POST OFC	55-2172	ASOC OFC	(C)	2
DIANA(WV) POST OFC	55-2190	ASOC OFC	(11)	2
DRYFORK(WV) POST OFC	55-2280	ASOC OFC	(11)	2
DURBIN(WV) POST OFC	55-2346	ASOC OFC	(11)	2
EGLON(WV) POST OFC	55-2436	ASOC OFC	(E)	2
ELIZABETH(WV) POST OFC	55-2466	ASOC OFC	(15) EXEMPT	9
ELK GARDEN(WV) POST OFC	55-2472	ASOC OFC	(13)	4
ELKINS(WV) POST OFC	55-2490	ASOC OFC	(20/1-SUPV)	24
ELLAMORE(WV) POST OFC	55-2514	ASOC OFC	(11)	2
ELLENBORO(WV) POST OFC	55-2520	ASOC OFC	(13)	2
ENTERPRISE(WV) POST OFC	55-2598	ASOC OFC	(13)	2
ERBACON(WV) POST OFC	55-2610	ASOC OFC	(11)	2
EUREKA(WV) POST OFC	55-2652	ASOC OFC	(B)	1
EVERETTVILLE(WV) POST OFC	55-2664	ASOC OFC	(E)	2
FAIRMONT(WV) POST OFC	55-2694	ASOC OFC	(21/3-SUPV)	88
FAIRVIEW(WV) POST OFC	55-2706	ASOC OFC	(15)	7
FALLING WATERS(WV) POST OFC	55-2718	ASOC OFC	(15)	5
FARMINGTON(WV) POST OFC	55-2736	ASOC OFC	(15)	5
FENWICK(WV) POST OFC	55-2754	ASOC OFC	(11)	2
FISHER(WV) POST OFC	55-2784	ASOC OFC	(E)	2
FIVE FORKS(WV) POST OFC	55-2790	ASOC OFC	(E)	2
FLEMINGTON(WV) POST OFC	55-2808	ASOC OFC	(13)	4
FOLSOM(WV) POST OFC	55-2838	ASOC OFC	(E)	2
FORT ASHBY(WV) POST OFC	55-2856	ASOC OFC	(15)	2
FORT SEYBERT(WV) POST OFC	55-2874	ASOC OFC	(C)	1
FOUR STATES(WV) POST OFC	55-2892	ASOC OFC	(11)	2
FRANKLIN(WV) POST OFC	55-2922	ASOC OFC	(15)	3
FRENCH CREEK(WV) POST OFC	55-2946	ASOC OFC	(15) EXEMPT	6
FRIENDLY(WV) POST OFC	55-2964	ASOC OFC	(13)	2
GALLOWAY(WV) POST OFC	55-3000	ASOC OFC	(11)	2
GERRARDSTOWN(WV) POST OFC	55-3084	ASOC OFC	(15)	4
GILMER(WV) POST OFC	55-3126	ASOC OFC	(D)	2
GLADY(WV) POST OFC	55-3150	ASOC OFC	(C)	2
GLENGARY(WV) POST OFC	55-3210	ASOC OFC	(11)	2
GLENVILLE(WV) POST OFC	55-3240	ASOC OFC	(18)	7
GORMANIA(WV) POST OFC	55-3282	ASOC OFC	(11)	2
GRAFTON(WV) POST OFC	55-3288	ASOC OFC	(20/1-SUPV)	24
GRANT TOWN(WV) POST OFC	55-3306	ASOC OFC	(13)	2
GRANTSVILLE(WV) POST OFC	55-3300	ASOC OFC	(15) EXEMPT	6
GRANVILLE(WV) POST OFC	55-3310	ASOC OFC	(13)	2
GREAT CACAPON(WV) POST OFC	55-3330	ASOC OFC	(13)	2
GREEN SPRING(WV) POST OFC	55-3348	ASOC OFC	(11)	1
GREENWOOD(WV) POST OFC	55-3372	ASOC OFC	(11)	1
GYPSY(WV) POST OFC	55-3414	ASOC OFC	(11)	2
HACKER VALLEY(WV) POST OFC	55-3420	ASOC OFC	(11)	2
HALLTOWN(WV) POST OFC	55-3444	ASOC OFC	(11)	2
HAMBLETON(WV) POST OFC	55-3450	ASOC OFC	(11)	2
HARMAN(WV) POST OFC	55-3510	ASOC OFC	(13)	2

INSTALLATION NAME	FINANCE NUMBER	ORGANIZATION TYPE	NAME	
HARPERS FERRY(WV) POST OFC	55-3528	ASOC OFC (18)		11
HARRISVILLE(WV) POST OFC	55-3540	ASOC OFC (18)		11
HAYWOOD(WV) POST OFC	55-3582	ASOC OFC (11)		2
HAZELGREEN(WV) POST OFC	55-3588	ASOC OFC (C)		2
HAZELTON(WV) POST OFC	55-3594	ASOC OFC (B)		2
HEDGESVILLE(WV) POST OFC	55-3624	ASOC OFC (18)		11
HEVETIA(WV) POST OFC	55-3636	ASOC OFC (11)		2
HENDRICKS(WV) POST OFC	55-3660	ASOC OFC (11)		2
HEPZIBAH(WV) POST OFC	55-3678	ASOC OFC (11)		2
HIGH VIEW(WV) POST OFC	55-3750	ASOC OFC (11)		2
HORNER(WV) POST OFC	55-3834	ASOC OFC (11)		2
HUNDRED(WV) POST OFC	55-3876	ASOC OFC (13)		3
HUTTONSVILLE(WV) POST OFC	55-3924	ASOC OFC (13)		2
IDAMAY(WV) POST OFC	55-3942	ASOC OFC (11)		2
INDEPENDENCE(WV) POST OFC	55-3960	ASOC OFC (13)		3
INDUSTRIAL(WV) POST OFC	55-3984	ASOC OFC (11)		2
INWOOD(WV) POST OFC	55-4020	ASOC OFC (18)		5
IRELAND(WV) POST OFC	55-4026	ASOC OFC (11)		2
JACKSONBURG(WV) POST OFC	55-4056	ASOC OFC (11)		2
JANE LEW(WV) POST OFC	55-4062	ASOC OFC (15)	EXEMPT	7
JUNCTION(WV) POST OFC	55-4188	ASOC OFC (C)		2
JUNIOR(WV) POST OFC	55-4194	ASOC OFC (11)		2
KANAWHA HEAD(WV) POST OFC	55-4212	ASOC OFC (C)		2
KEARNEYSVILLE(WV) POST OFC	55-4242	ASOC OFC (18)		11
KERENS(WV) POST OFC	55-4290	ASOC OFC (11)		2
KEYSER(WV) POST OFC	55-4332	ASOC OFC (20/1-SUPV)		29
KINGMONT(WV) POST OFC	55-4392	ASOC OFC (11)		2
KINGWOOD(WV) POST OFC	55-4404	ASOC OFC (18)		11
LAHMANSVILLE(WV) POST OFC	55-4470	ASOC OFC (C)		2
LIMA(WV) POST OFC	55-4752	ASOC OFC (A)		2
LINN(WV) POST OFC	55-4776	ASOC OFC (13)		4
LITTLETON(WV) POST OFC	55-4800	ASOC OFC (11)		2
LORENTZ(WV) POST OFC	55-4902	ASOC OFC (C)		1
LOST CITY(WV) POST OFC	55-4914	ASOC OFC (E)		2
LOST CREEK(WV) POST OFC	55-4920	ASOC OFC (15)	EXEMPT	7
LUMBERPORT(WV) POST OFC	55-4944	ASOC OFC (15)		4
MABIE(WV) POST OFC	55-5034	ASOC OFC (11)		2
MACFARLAN(WV) POST OFC	55-5064	ASOC OFC (E)		2
MAIDSVILLE(WV) POST OFC	55-5094	ASOC OFC (13)		3
MANNINGTON(WV) POST OFC	55-5142	ASOC OFC (18)		15
MARTINSBURG(WV) POST OFC	55-5208	ASOC OFC (21/1-SUPV)		94
MASONTOWN(WV) POST OFC	55-5232	ASOC OFC (15)		5
MATHIAS(WV) POST OFC	55-5244	ASOC OFC (13)		4
MAYSVILLE(WV) POST OFC	55-5292	ASOC OFC (11)		2
MCWHORTER(WV) POST OFC	55-5022	ASOC OFC (E)		1
MEADOWBROOK(WV) POST OFC	55-5322	ASOC OFC (11)		2
MEDLEY(WV) POST OFC	55-5340	ASOC OFC (A)		2
METZ(WV) POST OFC	55-5364	ASOC OFC (11)		2
MIDDLEBOURNE(WV) POST OFC	55-5376	ASOC OFC (15)	EXEMPT	6
MILAM(WV) POST OFC	55-5394	ASOC OFC (E)		2
MILL CREEK(WV) POST OFC	55-5412	ASOC OFC (15)		4
MILLVILLE(WV) POST OFC	55-5430	ASOC OFC (11)		2
MINERALWELLS(WV) POST OFC	55-5460	ASOC OFC (15)	EXEMPT	9
MOATSVILLE(WV) POST OFC	55-5490	ASOC OFC (13)		4
MONTANA MINES(WV) POST OFC	55-5520	ASOC OFC (E)		2
MONTERVILLE(WV) POST OFC	55-5538	ASOC OFC (E)		2
MONTROSE(WV) POST OFC	55-5550	ASOC OFC (13)	EXEMPT	6
MOOREFIELD(WV) POST OFC	55-5556	ASOC OFC (18)		7
MORGANTOWN(WV) POST OFC	55-5574	ASOC OFC (22/4+SUPV)		127
MOUNT CLARE(WV) POST OFC	55-5616	ASOC OFC (15)		5
MOUNT STORM(WV) POST OFC	55-5646	ASOC OFC (13)		2
MOUNT ZION(WV) POST OFC	55-5658	ASOC OFC (11)		2
MOUNTAIN(WV) POST OFC	55-5598	ASOC OFC (B)		2
MOYERS(WV) POST OFC	55-5670	ASOC OFC (E)		2
MUNDAY(WV) POST OFC	55-5700	ASOC OFC (C)		2
MURRAYSVILLE(WV) POST OFC	55-5706	ASOC OFC (11)		4
NEW CREEK(WV) POST OFC	55-5808	ASOC OFC (13)		2
NEW MARTINSVILLE(WV) POST OFC	55-5844	ASOC OFC (20/1-SUPV)		22
NEW MILTON(WV) POST OFC	55-5850	ASOC OFC (11)		4
NEWBERNE(WV) POST OFC	55-5796	ASOC OFC (C)		2
NEWBURG(WV) POST OFC	55-5802	ASOC OFC (13)		4
NORTON(WV) POST OFC	55-5952	ASOC OFC (11)		2
OLD FIELDS(WV) POST OFC	55-6042	ASOC OFC (11)		2
ONEGO(WV) POST OFC	55-6066	ASOC OFC (11)		2
ORLANDO(WV) POST OFC	55-6096	ASOC OFC (11)		4
OSAGE(WV) POST OFC	55-6114	ASOC OFC (13)		2
PADEN CITY(WV) POST OFC	55-6168	ASOC OFC (18)		7

INSTALLATION NAME	FINANCE NUMBR	ORGANIZATION TYPE	NAME	
PALESTINE(WV) POST OFC	55-6192	ASOC OFC (13)		4
PARKERSBURG(WV) POST OFC	55-6210	ASOC OFC (22/4*SUPV)		187
PARSONS(WV) POST OFC	55-6222	ASOC OFC (18)		11
PAW PAW(WV) POST OFC	55-6234	ASOC OFC (15)		4
PENNSBORO(WV) POST OFC	55-6276	ASOC OFC (15)	EXEMPT	8
PENTRESS(WV) POST OFC	55-6282	ASOC OFC (11)		2
PETERSBURG(WV) POST OFC	55-6306	ASOC OFC (18)		16
PHILIPPI(WV) POST OFC	55-6348	ASOC OFC (18)		14
PICKENS(WV) POST OFC	55-6360	ASOC OFC (11)		2
PIEDMONT(WV) POST OFC	55-6372	ASOC OFC (15)	EXEMPT	4
PINE GROVE(WV) POST OFC	55-6408	ASOC OFC (13)		2
POINTS(WV) POST OFC	55-6498	ASOC OFC (C)		2
PORTERS FALLS(WV) POST OFC	55-6522	ASOC OFC (E)		3
PULLMAN(WV) POST OFC	55-6636	ASOC OFC (11)		2
PURGITSVILLE(WV) POST OFC	55-6642	ASOC OFC (11)		2
PURSGLOVE(WV) POST OFC	55-6654	ASOC OFC (13)		2
RACHEL(WV) POST OFC	55-6702	ASOC OFC (11)		2
RANSON(WV) POST OFC	55-6768	ASOC OFC (18)		6
RAVENSWOOD(WV) POST OFC	55-6786	ASOC OFC (18)		12
READER(WV) POST OFC	55-6810	ASOC OFC (13)		2
RED CREEK(WV) POST OFC	55-6816	ASOC OFC (C)		2
REEDSVILLE(WV) POST OFC	55-6852	ASOC OFC (13)		2
REYNOLDSVILLE(WV) POST OFC	55-6894	ASOC OFC (11)		2
RICHWOOD(WV) POST OFC	55-6912	ASOC OFC (18)		7
RIDGELEY(WV) POST OFC	55-6924	ASOC OFC (18)		9
RIDGEWAY(WV) POST OFC	55-6942	ASOC OFC (C)		2
RIO(WV) POST OFC	55-6966	ASOC OFC (11)		2
RIPPON(WV) POST OFC	55-6978	ASOC OFC (11)		2
RIVERTON(WV) POST OFC	55-6996	ASOC OFC (11)		2
RIVESVILLE(WV) POST OFC	55-7008	ASOC OFC (15)	EXEMPT	7
ROCK CAVE(WV) POST OFC	55-7056	ASOC OFC (13)		2
ROCKPORT(WV) POST OFC	55-7074	ASOC OFC (11)		2
ROMNEY(WV) POST OFC	55-7110	ASOC OFC (18)		7
ROSEMONT(WV) POST OFC	55-7134	ASOC OFC (11)		2
ROWLESBURG(WV) POST OFC	55-7152	ASOC OFC (13)		4
SAINT MARYS(WV) POST OFC	55-7218	ASOC OFC (18)		14
SALEM(WV) POST OFC	55-7224	ASOC OFC (18)		13
SAND FORK(WV) POST OFC	55-7254	ASOC OFC (11)		2
SELBYVILLE(WV) POST OFC	55-7350	ASOC OFC (C)		2
SENECA ROCKS(WV) POST OFC	55-7356	ASOC OFC (11)		2
SHANKS(WV) POST OFC	55-7380	ASOC OFC (11)		2
SHENANDOAH JUNCTION(WV) POST O	55-7404	ASOC OFC (13)		2
SHEPHERDSTOWN(WV) POST OFC	55-7410	ASOC OFC (18)		6
SHERMAN(WV) POST OFC	55-7416	ASOC OFC (11)		2
SHINNSTON(WV) POST OFC	55-7428	ASOC OFC (18)		12
SHIRLEY(WV) POST OFC	55-7434	ASOC OFC (E)		2
SIMPSON(WV) POST OFC	55-7500	ASOC OFC (11)		2
SISTERSVILLE(WV) POST OFC	55-7518	ASOC OFC (18)		12
SLANESVILLE(WV) POST OFC	55-7554	ASOC OFC (11)		2
SLATYFORK(WV) POST OFC	55-7566	ASOC OFC (13)		2
SMITHBURG(WV) POST OFC	55-7578	ASOC OFC (11)		2
SMITHFIELD(WV) POST OFC	55-7590	ASOC OFC (13)		4
SMITHVILLE(WV) POST OFC	55-7596	ASOC OFC (11)		2
SPELTER(WV) POST OFC	55-7650	ASOC OFC (11)		2
SPRINGFIELD(WV) POST OFC	55-7686	ASOC OFC (13)		2
STOUTS MILLS(WV) POST OFC	55-7806	ASOC OFC (E)		2
SUGAR GROVE(WV) POST OFC	55-7830	ASOC OFC (11)		2
SUMMIT POINT(WV) POST OFC	55-7866	ASOC OFC (13)		2
TALLMANSVILLE(WV) POST OFC	55-7968	ASOC OFC (11)		2
TANNER(WV) POST OFC	55-7992	ASOC OFC (E)		1
TERRA ALTA(WV) POST OFC	55-8028	ASOC OFC (18)		10
THOMAS(WV) POST OFC	55-8064	ASOC OFC (13)		3
THORNTON(WV) POST OFC	55-8070	ASOC OFC (13)		4
THREE CHURCHES(WV) POST OFC	55-8082	ASOC OFC (C)		2
TROY(WV) POST OFC	55-8142	ASOC OFC (11)		2
TUNNELTON(WV) POST OFC	55-8154	ASOC OFC (15)	EXEMPT	8
UPPER TRACT(WV) POST OFC	55-8220	ASOC OFC (13)		2
UPPERGLADE(WV) POST OFC	55-8214	ASOC OFC (11)		2
VADIS(WV) POST OFC	55-8232	ASOC OFC (E)		1
VALLEY BEND(WV) POST OFC	55-8250	ASOC OFC (11)		2
VALLEY CHAPEL(WV) POST OFC	55-8256	ASOC OFC (C)		2
VALLEY HEAD(WV) POST OFC	55-8274	ASOC OFC (11)		2
VOLGA(WV) POST OFC	55-8352	ASOC OFC (11)		2
WADESTOWN(WV) POST OFC	55-8364	ASOC OFC (11)		2
WALKER(WV) POST OFC	55-8382	ASOC OFC (15)	EXEMPT	6
WALLACE(WV) POST OFC	55-8394	ASOC OFC (13)		4

INSTALLATION NAME	FINANCE NUMBR	ORGANIZATION TYPE	NAME	
WANA(WV) POST OFC	55-8412	ASOC OFC (11)		2
WARDENSVILLE(WV) POST OFC	55-8436	ASOC OFC (13)		3
WASHINGTON(WV) POST OFC	55-8460	ASOC OFC (10)		9
WAVERLY(WV) POST OFC	55-8478	ASOC OFC (15)	EXEMPT	6
WEBSTER SPRINGS(WV) POST OFC	55-8502	ASOC OFC (10)		6
WEST MILFORD(WV) POST OFC	55-8556	ASOC OFC (11)		2
WEST UNION(WV) POST OFC	55-8568	ASOC OFC (15)	EXEMPT	7
WESTON(WV) POST OFC	55-8562	ASOC OFC (20/1-SUPV)		26
WHITMER(WV) POST OFC	55-8658	ASOC OFC (11)		2
WICK(WV) POST OFC	55-8670	ASOC OFC (C)		2
WILEY FORD(WV) POST OFC	55-8712	ASOC OFC (13)		4
WILEYVILLE(WV) POST OFC	55-8718	ASOC OFC (11)		2
WILLIAMSTOWN(WV) POST OFC	55-8748	ASOC OFC (10)		11
WOLF SUMMIT(WV) POST OFC	55-8868	ASOC OFC (11)		2
WORTHINGTON(WV) POST OFC	55-8898	ASOC OFC (13)		4
WYATT(WV) POST OFC	55-8904	ASOC OFC (11)		2
YELLOW SPRING(WV) POST OFC	55-8934	ASOC OFC (11)		2
	INSTALLATION TYPE TOTAL ===>			1658
	MSC AREA TOTAL ===>			1902

QUESTIONS SUBMITTED BY SENATOR DOMENICI

QUESTION: You indicate in your testimony that a Fiscal Year 1990 appropriation of $460 million is needed under current requirements to maintain all free and reduced rate mail at the authorized level.

If the Congress did not enact the Administration's legislative proposal and did not appropriate the full $460 million, you indicate that the Postal Service would be required to adjust postal rates to make up the shortfall.

a. Which mailers' rates would most likely be adjusted?
b. How quickly could a rate adjustment be implemented?
c. What would be done in the interim?
d. Could the Postal Rate Commission decide to maintain certain free or reduced rate mail subsidies by increasing rates for other mailers?

ANSWER: a. It is likely that the Postal Service would increase the rates for all subsidized (preferred mailers) as it did in 1986 when faced with a similar situation. The possible exception, as in 1986, would be free mailing privileges for the visually handicapped and overseas voters. Then, as apparently now, there was a consensus that preferred rate adjustments exclude that segment of the subsidized mailing public.

b. The rate adjustment could be implemented within a month of the appropriation legislation enactment into law.

c. Since the adjustment for preferred rates could be put into place within a month, interim measures would not be necessary.

d. No. Currently, preferred rates are set at attributable cost levels by law and are subject to adjustment up to unsubsidized levels in the event of a failure of

appropriation. There are no provisions for favored rate treatment if appropriations are not forthcoming. At the present time, there are no provisions to enable the Postal Rate Commission to provide favored rate treatment for preferred mailers.

QUESTION: You indicate that the Administration intends to submit a previous legislative proposal to eliminate the revenue forgone appropriation for all preferred rate categories except free mail for the blind and overseas voter mail. Some categories viewed as abuses of the rate subsidy program would be eliminated while other preferred rate categories would continue at lower rates but the shortfall would be factored into higher rates for other mailers.

a. Is this the same proposal made by the Administration last year?

b. Was that legislative proposal submitted to the Congress, to your knowledge?

c. Which categories are viewed by the Administration as abuses of the rate subsidy program and are proposed to be eliminated?

d. What are the savings estimated to be as a result of elimination of these subsidies?

e. Which preferred mailers would continue to receive lower rates?

f. What is the amount of shortfall which would need to be made up by these other mailers?

ANSWER: a. Yes. The indication we received from the Administration is that they intend to offer the same proposal that they outlined last year.

b. Our understanding is that a specific legislative proposal was sent to Congress but never formally introduced.

c and d. Our understanding is that the "abuses" as termed by the Administration are not mail categories but mailing practices that fall within some of the categories. The preferred mail categories and the practices the Administration wishes to curtail are described below.

Second-Class Nonprofit - Advertising
Under the Administration's proposal, the advertising portion of nonprofit publications would no longer receive subsidized postal rates. Instead, the postage applied to the advertising portion of the publication would be the same as charged for-profit publications. Approximately $4 million of the FY 1990 revenue forgone requirement would be eliminated if the proposal were enacted.

Third-Class Nonprofit - Advertising
If this proposal were implemented, the Postal Service would charge commercial rates for the advertising in third-class

nonprofit mail unless it "relates directly" to the nonprofit group. "Relates directly" is interpreted to mean that the products are produced either by or for the nonprofit group and its members. Examples of products that could still be advertised at the nonprofit rates would include a bake sale for items made by the members of a church or a coupon for discounted medicine for members for a senior citizens' organization. Prohibited from receiving the nonprofit rates would be advertising for products such as insurance and travel since those products are not produced by nonprofit groups and can be used by the public at large.

Conceivably, $30 million in appropriations could be eliminated using the test for appropriate advertising which is adopted from the "unrelated business income test" used for determining taxes for nonprofit organizations involved in revenue producing enterprises. That estimate presupposes the ability of postal employees, in the workroom, to make immediate and correct decisions regarding the often complex relationships of advertising to nonprofit mailers.

Third-Class Nonprofit - Non-Academic Educational

One of the nine types of nonprofit organizations receiving the preferred rates is the educational category. That category includes both traditional schools and other organizations which attempt to educate society on various public issues. Among the latter are advocacy groups so termed because they often advocate positions on controversial subjects. If the Administration proposal were adopted, the third-class nonprofit rates would no longer be available to these "non-school" educational organizations.

The estimated appropriation savings for the proposal is $32 million. However, the estimate is based upon the probably unrealistic assumption that the Postal service would have adequate time before the start of the Fiscal Year 1990 to examine over 90,000 educational permits to determine which are still eligible under the amended requirements to receive nonprofit rates. Examination of all 90,000 permits would have to be performed in a consistent and systematic fashion. Otherwise, the affected mailers could mount successful legal challenges to the Postal Service's determinations of eligibility.

Third-Class Nonprofit - Political Advocacy

The proposal calls for prohibiting third-class nonprofit rates for mail that contains political advocacy.

Implementation of the proposal is estimated to save $23 million in revenue forgone appropriations in FY 1990. Again, that estimate is based upon the assumption of our ability to enforce the restrictions against political advocacy. Under the proposal, postal employees would need to thoroughly examine nonprofit mail to determine if it contained appeals on behalf or against issues being considered by governments from the local to national level. It is likely that only the most obvious appeals for candidates or lobbying action could be recognized and prohibited from using nonprofit postal rates given that the primary duty of postal employees is the delivery of mail rather than its examination.

Fourth-Class Library Rate - Publishers
Currently, book publishers may use the subsidized library rates for mailing books to libraries. Those rates would no longer be available if the proposal were adopted.

The estimated appropriation savings for FY 1990 if the proposal were adopted is $1 million.

Summary
If adopted in total, the estimated savings from the Administration's revenue forgone proposals are estimated to be $90 million. However, as indicated earlier, the savings assume that we have time to implement extensive reviews of existing eligibility and that we are able to effectively and expeditiously implement some rather complex and subjective requirements nationwide.

f. As we understand the proposal, the Postal Service would lose $391 million in revenue forgone funds. The Administration maintains that their recommended cost cutting and efficiency measures would compensate for the revenue loss and that other mailers would not be affected. We believe that their recommended measures are unrealistic and that recovery of the funding losses would fall fully upon postal customers.

QUESTION: Would you please provide us a list of current preferred rate mail and the amount of subsidy provided to each of these preferred rate mailers?

ANSWER: The following table lists the categories of preferred mail and indicates the amount of the FY 1990 appropriation request that would be provided to each category.

FY 1990 REVENUE FORGONE
AT STEP 16 RATES
($000'S)

Second-Class	
In-County	$ 32,650
Nonprofit	61,569
Classroom	3,179
Regular Rate	290
Total	97,699
Third-Class	
Nonprofit	380,209
Fourth-Class	
Library Rate	3,034
Free Mail	23,696
Total	504,672
Reconciliation	(44,872)
Grand Total	$459,755

QUESTION: What has been the impact of the "equal markup" accounting method on your Fiscal Year 1990 appropriation request?

ANSWER: The "equal markup" method for computing the revenue forgone appropriation has reduced the request by almost $580 million.

QUESTION: The Fiscal Year 1990 request includes $36.9 million to reimburse the Department of Labor for workers' compensation claims and medical benefits of former employees of the old Post Office Department. Does this amount include all payments owed in previous years for which appropriations were not provided? If not, what is the amount required to make all previously unfunded payments?

ANSWER: The $36.942 million requested for FY 1990 provides funding for the cost of claims billed by the Department of Labor for FY 1988 only. As detailed on the attached page I-12 from the U.S. Postal Service FY 1990 Congressional Budget Submission, $156,119 thousand would be required to reimburse the Department of Labor for all amounts previously billed but currently unpaid.

2. FY 1990 Appropriation Request for the nonfunded liabilities of the former Post Office Department, $36,942,000:

(in thousands of dollars)

ITEM	FY 1988 Amount	FY 1989 Amount	FY 1989 Change From Prior Year	FY 1990 Amount	FY 1990 Change From Prior Year
Employees' Compensation Fund..	1	...	-1	36,942	36,942
Total Post Office Department Liabilities	1	...	-1	36,942	36,942

Employees' Compensation Fund $36,942,000:

An annual amount is requested to fund compensation paid to postal employees for injuries which occurred prior to July 1, 1971, while employed by the Post Office Department, which remain liabilities of the U.S. Government. The Postal Service annually requests an appropriation to cover the amount billed by the Department of Labor for compensation payments made in the latest fiscal year. The amount appropriated is then reimbursed to the Department of Labor.

A schedule providing the number of cases and costs of compensation by fiscal year follows:

Actual Year	Budget Year	Number Of Cases	Costs ($000)	
1972	1974	26,357	30,096	
1973	1975	10,429	24,451	
1974	1976	9,340	27,913	
1975	1977	8,407	30,805	
1976	1978	7,571	33,791	
1977	1979	6,898	34,632	
1978	1980	6,639	35,655	
1979	1981	5,497	37,109	
1980	1982	5,069	38,240	
1981	1983	4,486	39,991	
1982	1984	4,313	42,790	
1983	1985	3,964	42,067	
1984	1986	3,562	39,128	No Funds Appropriated
1985	1987	3,358	40,049	No Funds Appropriated
1986	1988	3,125	39,507	$1 Thousand Appropriated
1987	1989	2,912	37,436	No Funds Appropriated
1988	1990	2,766	36,942	

QUESTION: Please provide your five-year plan for facilities construction in New Mexico.

ANSWER: The information requested follows.

NEW CONSTRUCTION-OWNED FIVE-YEAR PLAN
FOR THE STATE OF NEW MEXICO

FISCAL YEAR 1989 BUDGET = $5,116,000:

- Sante Fe, Coronado Station - Site purchase.
- Albuquerque, Five Points Station - Design award and Construction award.
- Edgewood, Main Post Office - Site purchase.
- Albuquerque, Airport Mail Facility - Design award.

FISCAL YEAR 1990 BUDGET = $7,732,000:

- Sante Fe, Coronado Station - Design award and Construction award.
- Albuquerque, Airport Mail Facility - Construction award.
- Belen, Main Post Office - Site purchase.
- Edgewood, Main Post Office - Design award and Construction award.

FISCAL YEAR 1991 BUDGET = $-0-:

No Project Activity this FY

FISCAL YEAR 1992 BUDGET = $7,741,000:

- Tularosa, Main Post Office - Site purchase and Design award.
- Clovis, Main Post Office - Site purchase and Design award.
- Albuquerque, Paradise Hills Station - Design award and Construction award.
- Albuquerque, West Mesa Station - Design award and Construction award.

FISCAL YEAR 1993 BUDGET = $2,066,000:

- Tularosa, Main Post Office - Construction award.
- Albuquerque, North Valley Station - Design award.
- Anthony, Main Post Office - Site purchase and Design award.

MAJOR MAIL PROCESSING FACILITIES - HEADQUARTERS BUDGET = $19,895,000:

Fiscal Year 1992:

- Roswell, Mail Processing Facility - Site purchase.

Fiscal Year 1993:

- Albuquerque, General Mail Facility Expansion - Design award and Construction award.
- Roswell, Mail Processing Facility - Design award and Construction award.

PROJECTS PREVIOUSLY ON THE NCO FIVE-YEAR PLAN THAT HAVE BEEN DEFERRED BEYOND THE PRESENT FIVE-YEAR PLAN AS A RESULT OF THE OMNIBUS BUDGET RECONCILIATION LEGISLATION OF 1987:

Clovis, MPO - Construction
Albuquerque, North Valley Staion - Construction

Anthony, MPO - Construction
Alamogordo, MPO - Site, Design and Construction
Dulce, MPO - Site, Design and Construction
Ruidoso, MPO - Site, Design and Construction
Hobbs, MPO - Site, Design and Construction
Mesilla Park, MPO - Site, Design and Construction
Bernalillo, MPO - Construction
Rancho de Taos, MPO - Site, Design and Construction
Las Cruces, University Park Station - Site, Design and Construction
Los Alamos, MPO - Site, Design and Construction
Aztec, MPO - Site, Design and Construction
Albuquerque, El Dorado Staion - Site, Design and Construction

INITIATE ACTION TO LEASE NEW SPACE
FIVE-YEAR PLAN FOR THE STATE OF NEW MEXICO

FISCAL YEAR 1989:

Coyote, Main Post Office
Hondo, Main Post Office
Cuba, Main Post Office
Casa Blanca, Main Post Office
San Fidal, Main Post Office
Lumberton, Main Post Office
Petaca, Main Post Office
Gila, Main Post Office
Kenna, Main Post Office
La Plata, Main Post Office
Cloudcroft, Main Post Office
Caballo, Main Post Office
Anton Chico, Main Post Office
Pinon, Main Post Office
El Prado, Main Post Office
Villanueva, Main Post Office
Glenwood, Main Post Office
Dulce, Main Post Office
Los Alamos, New Finance Station

FISCAL YEAR 1990:

Los Alamos, White Rock Station
Ribera, Main Post Office
Mimbres, Main Post Office
Guadalupita, Main Post Office
La Plata, Main Post Office
Pecos, Main Post Office
Cedarcrest, Main Post Office
Amalia, Main Post Office
Monticello, Main Post Office
Hachita, Main Post Office
Saint Vrain, Main Post Office
Duran, Main Post Office
Rancho de Taos, Main Post Office
Tularosa, Main Post Office

FISCAL YEAR 1991:

Ledoux, Main Post Office
San Jose, Main Post Office
Moriarty, Main Post Office
San Ysidro, Main Post Office
Cerrillos, Main Post Office
Reserve, Main Post Office
San Antonio, Main Post Office
Paguate, Main Post Office
McIntosh, Main Post Office
Centra, Main Post Office
Lincoln, Main Post Office
Aztec, Main Post Office
Bernalillo, Main Post Office

FISCAL YEAR 1992:

New Laguna, Main Post Office
Embudo, Main Post Office
Tesque, Main Post Office
La Mesa, Main Post Office
Chamberino, Main Post Office
Wagon Mound, Main Post Office
Mule Creek, Main Post Office

FISCAL YEAR 1993:

Des Monies, Main Post Office
Grants, Main Post Office
Fairacres, Main Post Office
Navajo Dam, Main Post Office
Logan, Main Post Office

SUBCOMMITTEE RECESS

Senator DECONCINI. The subcommittee will stand in recess until 10 a.m., Wednesday, March 15, when we will take testimony from the U.S. Merit Systems Protection Board, the Office of Special Counsel, the General Services Administration, and the Statutory Inspector General of the General Services Administration.

[Whereupon, at 11:54 a.m., Friday, March 10, the subcommittee was recessed, to reconvene at 10:15 a.m., Wednesday, March 15.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1990

WEDNESDAY, MARCH 15, 1989

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:15 a.m., in room SD-116, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present: Senator DeConcini.

U.S. MERIT SYSTEMS PROTECTION BOARD

STATEMENT OF DANIEL R. LEVINSON, CHAIRMAN

ACCOMPANIED BY:

MARIA JOHNSON, VICE CHAIRMAN
SAM BOGLEY, MEMBER OF THE BOARD
LUCRETIA MYERS, EXECUTIVE DIRECTOR
LLEWELLYN FISCHER, GENERAL COUNSEL

OPENING REMARKS

Senator DECONCINI. Thank you for waiting. I regret the delay. The Subcommittee on Treasury, Postal Service, and General Government will come to order. Today's hearings will focus on the fiscal year 1990 budget request for the Merit Systems Protection Board, the Office of Special Counsel, the General Services Administration, and the GSA Office of the Inspector General.

We will start this morning's hearings with the Merit Systems Protection Board as our lead witness. We welcome you, Mr. Levinson, and you can be sure that your full statement will appear in the record; if you would, please summarize it for us.

Mr. LEVINSON. Thank you very much, Mr. Chairman, and good morning. I am pleased to appear before you today to discuss the fiscal year 1990 appropriations request for the Board.

Before I begin, I would like to introduce my colleagues on the Board who are with us today. At my far left is our newest member, Sam Bogley. To his right is the Vice Chairman of the Board, Maria Johnson, and to her right is the Executive Director of the Board, Lucretia Myers, and to my right is the General Counsel of the Board, Llewellyn Fischer.

As you know the Board's appropriation request is explained in detail in the budget justification. To summarize, the Board is re-

questing an appropriation of $20,987,000 and 329 full-time equivalent workyears. That funding request is $499,000 more than the fiscal year 1989 appropriation, and the requested FTE's are unchanged.

The increased funding is requested to cover the costs resulting from within-grade salary increases, the increases in agency costs for health insurance and FERS, and increases in support costs based on an OMB-approved general inflationary increase of 3.6 percent. The Board has also asked that the limitation on reimbursements from the Civil Service Retirement and Disability Trust Fund be raised from $1,400,000 in fiscal year 1989 to $1,450,000 in 1990.

Our budget request, Mr. Chairman, assumes no major change in our annual caseload. In the past year, the Board issued approximately 7,400 initial appeals decisions and nearly 1,400 decisions on petitions for review. With respect to original jurisdiction cases, the Board issued approximately a dozen or so cases in that category, and our budget figures are based on those case-processing figures remaining relatively constant.

It is noted in my written statement that there are several possibilities for substantial increases in our caseload if certain legislation becomes law.

In the past fiscal year, our administrative judges issued their initial decisions on average within 73 days. Initial decisions on virtually all appeals filed with the Board were issued within 120 days of their filing. During that same year, the Board averaged about 184 days to adjudicate cases at the Board level where petitions for review had been filed.

I am pleased to report that the Board's decisions continue to be upheld by the courts at an overwhelming rate. During the most recent fiscal year, almost 93 percent of the Board's decisions reviewed by the U.S. Court of Appeals for the Federal Circuit, which is our primary reviewing court, were left unchanged.

Finally, the Board continues to advance an ambitious agenda on its Merit Systems studies and review function. As you know, that is a small, but important part, of our statutory mission to review the significant actions of the Office of Personnel Management and to conduct studies to ensure that prohibited personnel practices are not occurring Governmentwide.

We issued seven reports in the past fiscal year, and we expect in the coming year to issue about the same number of reports. I would be happy to discuss those reports with you in some detail.

Senator DECONCINI. Why don't you give us an example of one of those reports, if you were going to do that.

REPORT ON SEXUAL HARASSMENT

Mr. LEVINSON. I think, Mr. Chairman, the most significant example I could furnish you would be the sexual harassment report that the Board issued in the spring of 1988. As you may recall, this is a subject that the Board had studied in its earliest days. It had issued a report in 1981 indicating that sexual harassment was a serious problem in the Federal workplace and suggesting possible ways for Federal managers to address the issue. Five or six years later, the Board decided to take a second look and see whether

progress had been made in the area—by conducting a rather extensive survey of Federal workers.

Senator DECONCINI. Do you do that in-house or do you contract that out?

Mr. LEVINSON. Well that, perhaps, was a mix. Perhaps some contract work was done, but my understanding is that most of the work was done in-house. Is that not right, Lucretia?

Ms. MYERS. Yes; the actual studies were done in-house. We used contract support for such things as receiving survey responses, reading those responses by optical scan equipment, feeding the data into the computer, and so forth. The actual analysis of the information that we collected and the writing of the reports were done by our in-house staff.

Senator DECONCINI. How long did that study take?

Mr. LEVINSON. That study was done before I came into office in 1986. I believe it was authorized in the spring of 1986 and was completed by the end of calendar year 1987, and then the report was prepared and issued during the spring and summer of 1988.

Senator DECONCINI. And what did that produce?

Mr. LEVINSON. The report confirmed that sexual harassment continues to be a serious and pervasive problem in the Federal workplace and suggested additional ways of addressing the problem.

I am pleased that the report was well received by Federal executives at the highest level. I received a letter from Secretary of Defense Carlucci a couple of months after the Defense Department received the report and had an opportunity to review it and look at what they had in the way of directives and instructions. He assured me by letter that the Defense Department would be doing more in the area to ensure that this problem would be addressed.

Senator DECONCINI. Were certain agencies designated as worse than others in that study or was this a whole Government study without being specific as to agencies?

Mr. LEVINSON. I don't recall the breakdown exactly. We would be happy to furnish you with the incidence rates agency by agency.

[The information follows:]

The incidence rates of sexual harassment as summarized in tables 2-1 and 2-2—from the Board's 1988 study, "Sexual Harassment in the Federal Government: An Update"—are set forth below.

TABLE 2-1—INCIDENCE RATE OF SEXUAL HARASSMENT OF WOMEN IN EACH AGENCY

[In percent]

Agency [1]	Female victims	
	1980	1987
State (incl. Agency for International Development and U.S. Information Agency [2]		52
Veterans Administration	46	49
Navy	44	47
Justice	53	46
Air Force	46	45
Army	41	44
NASA		43
Education		42
Governmentwide average	42	42
Treasury	37	41
Housing and Urban Development	47	41

TABLE 2–1—INCIDENCE RATE OF SEXUAL HARASSMENT OF WOMEN IN EACH AGENCY—Continued

[In percent]

Agency [1]	Female victims	
	1980	1987
All other agencies	39	39
Energy	38	38
Labor	56	37
Small Business Administration [3]		37
General Services Administration	35	36
Transportation	55	36
Agriculture	31	36
All other Defense agencies	50	35
Commerce	40	33
Office of Personnel Management		33
Environmental Protection Agency		33
Interior	41	32
Health and Human Services		29

[1] "Agency" refers to the major organization where the respondent worked. Question 46 contained responses for the 21 largest departments and agencies, as well as a category of "other." The category of "other DOD" includes such agencies as the Office of the Secretary of Defense and the Defense Mapping Agency. The Department of Health, Education and Welfare [HEW] was listed in the 1980 survey. After the original survey was developed, HEW was abolished and the Department of Health and Human Services and the Department of Education were formed.

[2] The U.S. Information Agency was referred to as the International Communications Agency [ICA] from April 1978 to August 1982.

[3] In 1980, the Board did not collect data from the State Department, the Small Business Administration, the National Aeronautics and Space Administration [NASA], or the Office of Personnel Management.

TABLE 2–2—INCIDENCE RATE OF SEXUAL HARASSMENT OF MEN IN EACH AGENCY

[In percent]

Agency [1]	Male victims	
	1980	1987
Veterans Administration	22	21
Justice	16	19
Treasury	14	19
Small Business Administration [2]		19
All other Defense agencies	13	18
Education		18
General Services Administration	16	17
Air Force	12	16
Housing and Urban Development	16	16
Environmental Protection Agency		15
Health and Human Services		15
Energy	14	14
Navy	14	14
Governmentwide average	15	14
Agriculture	12	13
State (incl. Agency for International Development and U.S. Information Agency [3])		12
Interior	14	12
All other agencies	10	12
Army	16	11
Labor	10	11
Transportation	9	11
Office of Personnel Management		11
Commerce	12	10
NASA		10

[1] "Agency" refers to the major organization where the respondent worked. Question 46 contained responses for the 21 largest departments and agencies, as well as a category of "other." The category of "other DOD" includes such agencies as the Office of the Secretary of Defense and the Defense Mapping Agency. The Department of Health, Education and Welfare [HEW] was listed in the 1980 survey. After the original survey was developed, HEW was abolished and the Department of Health and Human Services and the Department of Education were formed.

[2] In 1980, the Board did not collect data from the State Department, the Small Business Administration, the National Aeronautics and Space Administration [NASA], or the Office of Personnel Management.

[3] The U.S. Information Agency was referred to as the International Communication Agency [ICA] from April 1978 to August 1982.

BUDGETARY IMPACT OF THE STUDIES FUNCTION

Senator DECONCINI. I would like to see it, if you have a summary of it. Continue, please. Excuse me for interrupting you.

Mr. LEVINSON. With regard to the budgetary impact of our studies, the amount appropriated in the past for those studies has been in the neighborhood of 5 percent of our budget. It is only about a $1,000,000-or-so program for the Board. In terms of cost-benefit analysis, it has paid its way in many respects—furnishing the GAO worthwhile information upon which to study the executive branch, providing OPM an idea of where it can strengthen some of its programs and what changes might be advisable, and giving Federal managers Governmentwide a better idea of how to assure that Merit System principles are adhered to.

PREPARED STATEMENT

With that I would be pleased to answer any questions you may have.

[The statement follows:]

STATEMENT OF DANIEL R. LEVINSON

Mr. Chairman and Members of the Subcommittee: I am pleased to appear before you today to discuss the fiscal year 1990 appropriations request for the U.S. Merit Systems Protection Board.

The Board's appropriations request for fiscal year 1990 is explained in detail in the budget justification previously submitted to you. To summarize, the Board is requesting an appropriation of $20,987,000 and 329 full-time equivalent workyears. The funding request is $499,000 more than the fiscal year 1989 appropriation, and the requested FTE is unchanged. Additional funding is requested to cover costs resulting from within-grade salary increases; increases in agency costs for health insurance and Federal Employees Retirement System (FERS); and increases in support costs based on an OMB-approved general inflationary increase of 3.6 percent. Also, the Board asks that the limitation on reimbursements from the Civil Service Retirement and Disability Trust Fund be raised from $1,400,000 in fiscal year 1989 to $1,450,000 in 1990. This increase reflects the actual cost to the Board of processing retirement appeals.

This request assumes no major changes in personnel law or policies that would significantly affect the Board's annual caseload. In fiscal year 1990, the Board estimates that it will issue approximately 7,400 initial appeals decisions and 1,400 decisions on petitions for review, estimates that are approximately like those projected for the previous fiscal year. Added to these figures will be approximately a dozen original jurisdiction cases, including Special Counsel actions involving whistleblower complaints and Hatch Act cases, as well as a variety of miscellaneous matters, such as interlocutory appeals, subpoena requests, court remands, cases reopened by the Board on its own motion, and compliance referrals from regional offices.

Legislative changes or unexpected events in the Federal workplace could cause major increases in the number of cases processed by the Board. For example, the decision to require agencies to absorb the cost of the January 1989 employee pay raise may increase employee appeals to the Board. This may occur because agencies may use reductions-in-force or furloughs to absorb this cost. Likewise, closure of a number of military bases may affect as many as 25,000 civilian employees who have the right to appeal to the Board. Passage of new whistleblower protection legislation, Hatch Act reform, or inclusion of the approximately 52,000 National Guard civilian technicians in the competitive service could significantly increase the Board's workload.

In fiscal year 1988, our administrative judges averaged 73 days to issue decisions on initial appeal. Nearly all of our regional office cases are decided within 120 days. The figure was 99.6 percent in fiscal year 1988. Many of the more complex cases result in a further appeal to the three-member Board here in Washington, DC. During fiscal year 1988, the Board averaged 184 days to adjudicate these cases.

The Board's decisions continue to be upheld by the courts at an overwhelming rate. During the most recent fiscal year, 92.4 percent of the Board's decisions re-

viewed by the United States Court of Appeals for the Federal Circuit were unchanged.

In fiscal year 1988, the Board issued seven reports pursuant to its special studies and OPM oversight responsibilities, covering such subjects as the use of temporary employees in the Federal Government, the operation of the Performance Management and Recognition System, and sexual harassment in the Federal workplace. These reports are sent not only to the President and Congress but have also acquired a large audience among those committed to improving the Federal personnel systems—Federal agency heads and other officials, public interest groups, academicians, employee associations, and other groups and individuals. A similarly important research agenda is being pursued now and for fiscal year 1990.

Our requested appropriation will enable the Board to continue to serve the Federal employees, the agencies, and the taxpayer well.

Thank you, Mr Chairman. I would be pleased to answer any questions you may have.

INCREASE IN BUDGET REQUEST

Senator DECONCINI. Thank you, Mr. Chairman. We appreciate your testimony. Your 1990 budget does request $20,987,000 and 329 positions which represents an increase of $499,000—about one-half of a million dollars more than your fiscal year 1989 enacted level of funding. We understand your justification. The increase will be used to cover inflationary costs for pay, benefits, and support services. However, your budget does not assume any increase in projected workload, and I would like to talk about your workload for a moment.

You note in your testimony that whistleblower legislation, base closures, and potential reductions in force due to the absorption of the 1989, 4.1 percent pay raise could have a significant impact on your 1990 caseload. Did your budget request to OMB include any increase to cover the cases projected, if any of the above-mentioned actions were taken?

Mr. LEVINSON. Mr. Chairman, it did not.

Senator DECONCINI. You did not ask for anything more than what you got here from OMB?

Mr. LEVINSON. We did not. The only changes that emerged from the OMB process were to clarify certain categories of money and FTE allocations. This is what we requested.

Senator DECONCINI. So you're going to have an increase in workload, but you're going to handle it with the people you've got.

Mr. LEVINSON. We don't know, at this point, what kind of increases in workload are likely to occur.

Senator DECONCINI. Well, there's a compromise whistleblower bill that apparently has just been worked out with the administration. It's likely that congressional action will take place very soon. If this does occur, have you reviewed the bill to determine how you will handle the increased whistleblower cases in this fiscal year and in fiscal year 1990?

Mr. LEVINSON. Looking at fiscal year 1989, given the period of time before the law becomes effective, if it is enacted, and the deferral period that is structured into the law, the Board would not be receiving such cases, I would estimate, until at least midsummer, if not later.

As far as its potential gross impact on our cases, it would be rather speculative——

Senator DECONCINI. For 1989.

Mr. LEVINSON. [continuing]. To say the least right now, to be able to give you a good faith estimate of what we are looking at—more really for 1990.

Senator DECONCINI. You just don't know.

Mr. LEVINSON. Because we really won't have much experience with it, even if it goes through very quickly, until the new fiscal year.

DRUG TESTING CASES

Senator DECONCINI. Let me ask you a question on drug testing. Federal employee drug testing, as you know, Mr. Chairman, has become a very contentious issue. Some agencies are in the process of implementing testing procedures. Has the Board acted on any drug testing cases?

Mr. LEVINSON. The Board has received a few cases involving drug testing and, so far, the kinds of cases that we have seen deal with whether the proper notice was given to employees before the testing program began and whether the rehabilitation program was appropriate or whether it was deficient in some respects. We really have not had occasion at the Board level to address drug testing in any precedent-setting way yet and, as you may know, there is a great deal of activity in this area that is occurring directly in court.

Senator DECONCINI. Do you anticipate that any of these court decisions will directly affect your operations?

Mr. LEVINSON. Very possibly. We are going to monitor what the courts do in this area closely. It could well have a very important impact on what we do in the civil service.

DRUG AND ALCOHOL ABUSE CASES

Ms. JOHNSON. Mr. Chairman, I would like to make a brief comment in the area of drugs and alcohol abuse.

Senator DECONCINI. Yes, please.

Ms. JOHNSON. The Board has recently clarified and revamped some of its previous positions in the area of self-induced handicaps, and we now have been taking a serious look at that issue over the last 2 years in a chain of cases that are now a part of our case law.

Senator DECONCINI. What have you found?

Ms. JOHNSON. There were a lot of ambiguities in the way the Board defined handicap. For example, the Board's cases did not make a distinction between the casual user of drugs and the addict. The Board's recent cases have clarified the type of proof an individual must offer to prove that he has a substance abuse problem and is entitled to help from his agency. I can send you a copy of the case summary that was prepared by my executive assistant for presentation at an OPM-sponsored employee and labor relations symposium. The summary has received a great deal of interest from senior managers.

CASELOAD PREDICTIONS FOR FISCAL YEARS 1989 AND 1990

Senator DECONCINI. OK, thank you. Mr. Chairman, your testimony indicates that you have not included funds in your fiscal year 1990 budget to review cases which may result from a reduction in

force due to the absorption of the 1989 pay raise. What reason do you have to believe, if any, that RIF's may occur? Have you heard about any potential agencies doing that?

Mr. LEVINSON. Mr. Chairman, we haven't heard directly that any agency intends to do exactly that. Based on our historical experience and given that this is a Governmentwide absorption of, in some cases, rather substantial amounts of money, we think there is certainly the possibility, if not the likelihood, that particularly small agencies may be compelled to use RIF's in order to stay within their budgets, and that could result in an increase in our caseload. Again, based on our historical experience, and I can't furnish you with exact numbers on this, our sense at the Board is that approximately one-third of RIF'd employees tend to appeal to the Board.

Senator DECONCINI. They do. And we also noticed that your budget contains an increase of $50,000 over last year's level for the funds transferred from the Civil Service retirement and disability fund to cover the administrative cost for adjudicating these appeals. How many retirement appeals do you estimate will come before the Board this year and how many in the next year? Do you make those estimations?

Mr. LEVINSON. We anticipate that 1,700 cases concerning legal and disability retirement will be filed in both the regions and at headquarters this year, and, in fiscal year 1990, we would expect that approximately the same number of appeals will come to the Board.

Senator DECONCINI. Is that a pretty steady number then?

Mr. LEVINSON. That is a modest increase, I think, over our experience in the previous fiscal year, but it is certainly in keeping, generally, with the numbers that we have been experiencing these last several years.

Senator DECONCINI. Thank you. Does anybody have anything to add?

[No response.]

SUBMITTED QUESTIONS

Senator DECONCINI. Thank you. I have some questions from Senator Domenici, and I will submit the balance of mine. Thank you very much for being with us. Sorry to keep you waiting.

Mr. LEVINSON. Thank you, Mr. Chairman.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR DECONCINI

WHISTLEBLOWER LEGISLATION

Question (from Senator Deconcini): A compromise on whistleblower legislation was just reached and it is likely Congressional action will be taken in the near future. If this was to occur, how will you handle the whistleblower cases in fiscal years 1989 and 1990? Do you have any estimate on how this legislation will affect your caseload? Do you expect to request a supplemental in '89? Should we expect a budget amendment for fiscal year 90?

Answer: If the whistleblower legislation is enacted, the Board does not expect a significant increase in its caseload during FY 1989. The effective date of the whistleblower legislation is 90 days after enactment into law, and the legislation requires that whistleblowers exhaust the Office of Special Counsel procedures before appealing to the Board. Thus, even if the bill is signed into law by the President without delay, the Board will not see whistleblower cases until mid- to late-summer of this fiscal year. Accordingly, the Board does not anticipate a need for supplemental funding in FY 1989.

As for FY 1990, although the whistleblower legislation will undoubtedly increase the Board's caseload and its costs, it is too early to estimate the impact with any accuracy. The Office of Special Counsel has advised the Board that it receives approximately 250-300 whistleblower cases each year. The new legislation is, however, designed to provide additional protection to whistleblowers and may well result in an increased number of cases coming to the Special Counsel. Moreover, there is no way to predict the number of whistleblowers who will choose to exercise the right to appeal to the Board. The Board could also incur additional costs related to court cases that it would litigate as named respondent. Depending on the Board's actual experience with the whistleblower legislation, the Board may have to consider making a supplemental budget request for FY 1990.

DRUG TESTING CASES

Question (from Senator Deconcini): Do you anticipate the numbers of cases involving Federal employee drug testing to increase in the near future or will the courts make these decisions for you?

Answer: Most cases to date have gone to the courts in challenges to the constitutionality of drug testing generally. Since the hearing before the Subcommittee, the Supreme Court has issued two decisions ruling on the constitutionality of mandatory drug testing in the Federal workplace. In those cases, the Court held that blood and urine testing are searches within the meaning of the Fourth Amendment and must meet a reasonableness requirement. The Court upheld mandatory drug testing for Federal workers in jobs involving public safety, as well as drug interdiction and law enforcement. However, the Court did not address the constitutionality of random testing programs proposed for Federal workers.

The Board has received only a few cases involving drug testing in the last year or so. It appears that the constitutional implications of the testing issue will be played out in the courts before any significant number of cases come to the Board.

AIDS CASES

Question (from Senator Deconcini): What about AIDS discrimination cases--Have you had any AIDS actions brought before the Board and do you expect these cases to significantly increase in FY 1990?

Answer: The Board's records indicate that it has received only a few appeals involving AIDS-related issues. No decisions have yet issued establishing precedent in the area. Specifically, four cases were closed by initial decision; one case is presently pending in a region; and one case is pending before the Board members. Although the potential for an influx of cases raising complicated issues exists, at this time, the Board cannot predict with any accuracy whether there will be a significant increase in AIDS cases in FY 1990.

SETTLEMENTS

Question (from Senator Deconcini): What percentage of your cases result in settlement prior to an initial decision by your administrative judges?

Answer: In FY 1988, approximately 48 percent of the cases not dismissed for lack of jurisdiction or timeliness were settled.

Question (from Senator Deconcini): Your justification states that the increasing rate of settlement at the regional level has not resulted in the expected decline in the number of petitions for

review filed with the Board. Can you explain the reason for this and do you expect this trend to continue?

Answer: During FY 1988, the number of petitions for review filed with the Board declined by approximately five percent. Even though the Board correctly assumed that cases that are settled rarely result in appeals to the Board, it overestimated the effect that this would have on the total number of petitions for review filed with the Board. For this reason, the Board now expects a much more modest decline in the number of petitions for review as a result of any increase in settlements.

TRAINING

Question (from Senator Deconcini): Your budget justification notes that you intend to increase training of administrative judges. How much money do you intend to allocate to training in FY 1990 and how does this compare to the current fiscal year?

Answer: In its budget justification, the Board indicated (page 4) that it would continue to emphasize training for its administrative judges--providing legal training on emerging issues and continued training in such areas as alternative means of dispute resolutions. The Board does not, however, intend to increase the training provided to its administrative judges or other employees.

In FY 1989, the Board allocated approximately 1 percent of salary costs--about $135,000--for training. The FY 1990 justification--which includes a 3.6 percent increase for inflation--would increase the training allocation to about $140,000. Although the Board has not yet made its FY 1990 office-by-office allocations for training, it expects that those allocations will be at approximately the same level as for FY 1989.

Question (from Senator Deconcini): Have you conducted any special studies to determine if the benefits of training outweigh the costs? Please explain.

Answer: The Board has not conducted a formal cost-benefit study on the general effectiveness of training, but it has looked at issues of training success in specific areas. For example, in its FY 1988 report on Sexual Harassment in the Federal Workplace, the Board found that agencies had established and publicized policies that prohibited sexual harassment on the job and provided related training to their

managers and personnel and EEO officials. The survey of Federal employees, however, showed that although Federal employees were generally aware of those policies, there existed confusion and disagreement about what behaviors can constitute sexual harassment; employees were skeptical about the efforts of their agencies to deal with the problem; and some managers and employees did not take the prohibition against sexual harassment seriously. Based on these findings, the Board recommended, among other things, that agencies expand their training programs to include the entire workforce rather than only managers and personnel officials, provide in-depth training rather than mere generic warnings that sexual harassment is improper, and provide for periodic review and evaluation of the quality of the training effort.

CASE PROCESSING

Question (from Senator Deconcini): What is the average time it is taking to complete an original jurisdiction case and issue a decision? How does this compare to initial appeal decisions and decisions on petitions for review (PFR's)?

Answer: In FY 1988, the overall average processing time for initial appeals and PFR's (excluding addendum cases) was 257 days--an average 73 days for processing an initial appeal and 184 days for processing PFR's. For that same year, the average processing time for original jurisdiction cases was 412 days. This reflects the combined time for processing a case before the Administrative Law Judge, who holds a hearing when required and issues a recommended decision, and the time for consideration by the Board members. As of March 17, 1989, the Board had pending 25 original jurisdiction cases, and the average number of days in process for these cases was 94 days.

The longer time period, on average, to consider and decide original jurisdiction cases when compared to appeals cases reflects, in part, the difference in the nature of the cases. Original jurisdiction cases include Hatch Act cases at the state and local as well as the Federal level, Special Counsel corrective and disciplinary action cases, actions brought by agencies against Administrative Law Judges, and SES performance-based actions.

Unlike appeals cases, where much of the law is settled, original jurisdiction cases often raise novel and complex issues on the merits and involve difficult or unusual procedural questions. For example, a case decided last year presented, at various stages of the

litigation process, a constitutional question as to the Board's authority to impose discipline on the head of a legislative branch agency appointed by the President, a question as to the propriety of the agency head's subsequent delegation of authority to a subordinate, and an allegation of perjury. Another case involved, among other things, a novel question regarding whether harassing remarks created a hostile environment that interfered with the employee's work or psychological well being and thus constituted religious discrimination. Original jurisdiction cases also often present sensitive questions involving actions against administrative law judges and SES employees. They may also involve multiple parties with different interests. For example, cases involving allegations that an employee of a state government in a federally funded program violated the Hatch Act may involve the individual, the agency, and the state.

MANAGEMENT IMPROVEMENT THROUGH AUTOMATION

Question (from Senator Deconcini): Your justification states that you intend to continue to make management improvements through automation. Have these efforts resulted in any cost savings in FY 1989? Are there any additional savings anticipated in FY 1990?

Answer: Automated systems have allowed the Board, over the last few years, to handle its caseload despite a reduction in support staffing levels. In some instances, automation has improved the quality of the work performed--improvements that do not necessarily translate into reduced operating expenses. For example, through on-line research software programs, the Board staff has access to a data base of legal and legislative materials. Another kind of improvement through automation is the use of automated style sheets--the automation saves time and results in a uniformity of work product that would otherwise be difficult to attain.

BUDGET REQUEST

Question (from Senator Deconcini): What would happen if we froze your budget in FY 1990 at the 1989 enacted level?

The Board's budget does not include any increase to cover the $600,000 cost of the January 1989 pay raise. The requested increase of $499,000 reflects only already built-in costs--costs based on within-grade salary increases for employees and the increased costs of health insurance and Federal Employees

Retirement System (FERS)--and costs reflecting the OMB-approved 3.6 percent general inflationary increase. If the Board were required to absorb the built-in and inflationary costs as well as the costs of the pay raise, it would be absorbing a total of approximately $1.1
million in increased costs over a two-year period. Because the Board is a labor-intensive agency and most of the Board's costs are directly related to personnel costs, it would be difficult for the Board to handle a freeze at the FY 1989 level.

Questions Submitted by Senator Domenici

RETIREMENT APPEALS

Question 1 (from Senator Domenici): The Board's Fiscal Year 1990 Budget Submission indicates that it spent approximately $1,350,000 on adjudication of OPM retirement decisions in Fiscal Year 1988 and expects to spend $1,400,000 in Fiscal Year 1989 and $1,450,000 in Fiscal Year 1990.

What happened in Fiscal Year 1988 when the limitation on reimbursement from the Civil Service Retirement and Disability Trust Fund was $1,200,000, $150,000 less than the Board's actual cost of processing retirement appeals? Did the Board have to absorb these costs?

Answer: In FY 1988, the Board absorbed the additional $150,000 in the cost of processing retirement appeals out of directly appropriated funds.

Question: How many retirement appeals did the Board handle in Fiscal Year 1988? How many are anticipated in each of Fiscal Years 1989 and 1990?

Answer: In Fiscal Year 1988, the Board processed 1,730 retirement appeals in the Regions and Headquarters, and it expects to process about 1,700 such cases in Fiscal Years 1989 and 1990.

WORKLOAD

Question 2 (from Senator Domenici): The Board's Fiscal Year 1990 request assumes that its workload will remain relatively stable over the next two years, yet it mentions a recent increase in workload due to reductions in force being carried out by TVA and at some DOD installations. Is the Board able to handle this recent increase in its workload within its existing resources?

Answer: The Board has been able so far to handle its caseload. Reductions in force demonstrate how the

Board's caseload may be affected by individual decisions of other agencies.

Question 3 (from Senator Domenici): In your testimony, you indicate that although no workload increases are assumed, legislative changes or unexpected events could cause major increases in the workload of the Board. For example the decision that agencies absorb the cost of the January 1989 pay raise, the closure of military bases, the passage of the Whistleblower Protection Act or Hatch Act Reform, and/or the inclusion of National Guard civilian technicians in the competitive service could cause substantial workload increases.

Has the Board estimated the impact of each of these changes or events on its workload? If so, what additional staff years and funding, if any, would the Board require to handle the anticipated workload increase? Please estimate the impact of each of the legislative changes or events mentioned.

Given the high likelihood that the Whistleblower Protection Act may be enacted into law or at least one of the events you anticipate will occur, why has no increase in the Board's workload been assumed in the budget submission?

Answer: The impact of legislative or other changes on the Board caseload is difficult to predict. The whistleblower legislation is a case in point. As set forth above, the impact of the legislation on the Board, if now signed into law, is not likely to be significant in FY 1989. As for FY 1990, in addition to costs related to whistleblower appeals to the Board, the Board could incur additional costs stemming from court cases that it would litigate as named respondent. It is difficult, however, to estimate the impact with any precision, particularly because the legislation is intended to strengthen the protection afforded to whistleblowers. For these reasons, the Board determined that it was premature to ask for a specific increase in FTE or funding before the legislation was enacted or it had any experience with the new law.

Question 4 (from Senator Domenici): The Budget Submission also indicates that the Board expects to handle new and complex issues in the future, including employee drug testing, treatment of employees with AIDS, and the new Federal Employees Retirement System. Have these new issues been factored into your Fiscal Year 1990 workload and funding requirements?

Answer: For FY 1990, the Board has factored these cases into its normal predicted workload and funding requirements. The actual number of appeals raising such issues received to date by the Board has been relatively small. Although the Board has found

that the issues raised in these cases tend to be more complex than those raised in most appeals, and, hence, more time consuming to adjudicate, the Board has not yet found it necessary to ask for additional resources.

MANAGEMENT IMPROVEMENTS

Question 5 (from Senator Domenici): The fiscal year 1990 budget submission indicates that the Board has developed a series of strategic action plans that have identified opportunities for management improvements throughout the Board. Specifically, what management improvements are being implemented?

Answer: It should be noted that every fiscal year, the Board reviews the management of its offices. During FY 1989, the Board will implement a program to improve internal control and reporting, issue a series of manuals to enhance management policies and procedures, undertake a study to improve the Board's internal issuance system, and develop a five-year plan for management of information resources. During this same year, the Board's Inspector General will survey physical security and review the Board's implementation of the Computer Security Act of 1987. For both FY 1989 and 1990, the Board will continue two management programs, a project to enhance its automated case tracking and an administrative management review of Headquarters and Regional Offices. Each of these plans to improve management will be tracked monthly until completion.

ORIGINAL JURISDICTION CASES

Question 6 (from Senator Domenici): The budget submission indicates that there has been a decline in the number of original jurisdiction cases handled by the office of the administrative law judge in the current fiscal year, although this trend is not likely to continue. Has there been any particular reason for this decline? If so, what is it?

Answer: As of March 28, 1988, the Office of the Administrative Law Judge had 14 original jurisdiction cases pending. The caseload included nine Special Counsel cases (five Hatch Act and four non-Hatch Act disciplinary actions) and five actions against Administrative Law Judges. Although the caseload of original jurisdiction cases had decreased about the time the budget justification was prepared, as predicted, the original jurisdiction caseload has now increased. As of March 17, 1989, the Administrative Law Judge had 25 original jurisdiction cases pending--including 9 Special Counsel cases (3 Hatch Act and 6 non-Hatch Act disciplinary cases), 2 actions against SES employees, and 14 actions against Administrative Law Judges. Because the number of cases is relatively

small, accurate projections are difficult. The Board has no reason to believe that the change in the number of cases was indicative of a trend. The Board's experience has been that over long periods the original jurisdiction caseload is relatively constant.

SPECIAL STUDIES

Question 7 (from Senator Domenici): How many FTE positions and what level of funding is included in the Fiscal Year 1990 request for special studies? How many studies were completed in Fiscal Year 1988? How many are being undertaken in Fiscal Year 1989?

Answer: Final funding allocations within the Board for FY 1990 have not yet been made. We anticipate, however, that the Office of Policy and Evaluation will be staffed and funded at basically the same level as FY 1989 (see the response to Question 9) with a small adjustment for inflation. This amount will cover all direct expenses such as salaries, benefits, travel, printing, space rental, supplies, and contracts (e.g., for survey research support).

During FY 1988, the Board released the following seven reports:

- Working for the Federal Government: Job Satisfaction and Federal Employees
- Performance Management and Recognition System: Linking Pay to Performance (An OPM Significant Action Review)
- Expanded Authority for Temporary Appointments: A Look at Merit Issues (An OPM Significant Action Review)
- Federal Personnel Policies and Practices: Perspectives from the Workplace
- Toward Effective Performance Management in the Federal Government (An OPM Significant Action Review)
- Sexual Harassment in the Federal Government: A 1988 Update
- Attracting Quality Graduates to the Federal Government: A View of College Recruiting

During FY 1989, the Board will release reports or substantially complete work on the following ten studies:

- U.S. Office of Personnel Management: The First Decade (A retrospective review of some of the significant actions of OPM from FY 1978 through FY 1988)

- The Tennessee Valley Authority: Another Merit System (A review of a merit system not covered by most of the Title 5 U.S.C. personnel provisions)

- The Selection of First Line Supervisors in the Federal Government

- Who is Leaving the Federal Service? An Analysis of Employee Turnover

- What Price Simplicity: A Study of OPM and Agency Initiatives to Delegate Personnel Authorities and Free Managers from Overly Prescriptive Personnel Rules

- A Survey of Former Members of the Senior Executive Service

- Developments in Position Classification and Qualification Standards Development (An OPM Significant Action Review)

- New Approaches to College Recruiting (An OPM Significant Action Review)

- A Survey of Senior and Full Performance Level Personnel Officials Throughout the Government

- 1989 Merit Principles Survey (A Governmentwide survey of a cross section of over 20,000 Federal employees on a variety of pressing civil service issues)

IMPACT OF THE SEXUAL HARASSMENT STUDY

Question 8 (from Senator Deconcini): The budget submission indicates that a number of remedial actions have been initiated by various Federal agencies in response to the Board's June 1988 Sexual Harassment Report. Can you please be more specific as to which agencies have responded and the actions each has taken.

Answer: Although it is still too early for a formal or complete inventory of the impact of our latest report on sexual harassment, the initial feedback from a number of agencies has been favorable. As with most of the Board's studies, the full impact of the sexual harassment study on government operations will unfold over time and, in some cases, will take the form of subtle but important differences in managerial and employee awareness and personnel policy formulation. The early feedback from several agencies (which together employ over two-thirds of all non-postal civilian employees in the executive branch), however, has been positive and not subtle. The following is a sample of some of the specific actions taken by these agencies:

Department of Defense: Shortly after release of the report on sexual harassment, the Secretary of Defense issued a strong statement to all of his top staff (including the Secretaries of the Military Departments) that: 1) referred to the findings from the Board's report and mandated development of specific plans for corrective action and the submission of periodic reports of accomplishments; 2) reaffirmed that actions will be taken against violators of the DOD policy against sexual harassment including possible revocation of security clearances or, for military personnel, possible court martial proceedings; and 3) outlined plans for future Department-wide actions. The DOD also initiated a comparable study for military personnel based, in large part, on the Board survey. Board personnel have also briefed several gatherings of top DOD managers on sexual harassment issues.

Office of Personnel Management: OPM referred to the Board's study on sexual harassment and announced the availability of an on-site course titled "Preventing Sexual Harassment." OPM announced that the course could be adapted to the needs of individual agencies and outlined several different approaches that an agency could take to address the issues with assistance from OPM.

Department of Labor: In addition to internal policy issuances, the DOL focused attention on the problem of sexual harassment during internal conferences comprised of key DOL staff. As part of this latter effort, Board staff provided separate briefings directed to 1) all DOL personnel officers, 2) all agency employee relations specialists, 3) the Executive Staff of the Employment Standards Administration, and 4) key staff in the Department's Region II. DOL described the briefings provided by the Board staff as "educational, informative, and very well received by a tough audience."

Department of Transportation: The Secretary of Transportation issued an updated policy statement defining sexual harassment and strongly expressing his position that "sexual harassment cannot and will not be tolerated * * *." As one response to that statement, the DOT's Inspector General issued a memo to employees on sexual harassment that referred to the Board's report; he also provided a detailed summary of the findings and listed several specific activities that would be undertaken, including a personal briefing by Board staff to the IG and his top management staff.

Department of State: The State Department conducted its own internal survey of employees (including foreign service staff who were not part of the Board's survey) to further identify problem areas.

Small Agency Council: The Council consists of representatives from over 70 of the smaller Federal departments and agencies (all of which have fewer than 6,000 employees) who meet monthly to discuss items of interest to the membership. Several months after release of the Board's report on sexual harassment, a Council meeting on the issue of sexual harassment featured a detailed briefing from Board staff.

Veterans Administration (now the Department of Veterans Affairs): Shortly after release of the report on sexual harassment, the VA Administrator met with the heads of the major VA departments and staff offices to discuss his concerns regarding the findings of the report on sexual harassment. He also directed the VA Office of Equal Opportunity and the Office of Personnel and Labor Relations to take the lead in developing and implementing strategies to address the problem. Among the initiatives undertaken were 1) development of a sexual harassment handbook for managers and supervisors; 2) a sexual harassment pamphlet for all employees; and 3) a new sexual harassment poster for posting throughout all VA facilities.

A White House letter last summer from the Assistant to the President and Cabinet Secretary noted: "We are proud of the work the Merit Systems Protection Board has done in bringing this issue to the attention of department and agency managers, and are inspired by the actions already taken in many agencies to rectify this damaging situation."

It is also worth noting that the impact of the study extends beyond the Federal Government. Last fall, for example, at the 3-day Michigan Governor's Labor-Management Conference, a conference keynote speaker referred extensively to the Board's report, and a Board representative participated on a special panel to discuss the findings. The study has also been cited repeatedly in the professional literature and general media publications and broadcasts.

CASE DECISION AND PROGRAM MANAGEMENT

Question 9 (from Senator Domenici): Would you please give us the number of FTE positions and level of funding provided in Fiscal Year 1988, Fiscal Year 1989, and included in your Fiscal Year 1990 request for the twelve offices and divisions listed under Section D.,

"Case Decision and Program Management," of the Budget Submission.

Answer: The table below shows the FTE and level of funding provided in Fiscal Year 1988 and Fiscal Year 1989 for each of the offices listed in the Case Decision and Program Management section of the Budget Submission (pages 15 to 18). The Board has not yet made any office by office FTE or funding allocations for FY 1990. As shown in the Budget Justification (page 1) for FY 1990, however, the Board has allocated 130 FTE and $7,851,000 to the Case Decision and Program Management function. These figures are based on the Board's expectation that there will be no changes between 1989 and 1990, other than inflationary cost increases. The FTE for 1990 is projected to be the same as 1989, and the increased funding level reflects a prorated increase based on inflation.

U.S. MERIT SYSTEMS PROTECTION BOARD

CASE DECISION AND PROGRAM MANAGEMENT

DETAIL BY OFFICE

(Dollars in Thousands)

Office	1988		1989	
	FTE	AMT	FTE	AMT
Office of the Board	14	$1,061	17	$1,277
Office of the Executive Director	3	223	3	257
Office of the Deputy Executive Director for Management*			3	290
Office of Management Analysis*	5	308	9	556
(Office of Legislative Counsel)*	6	317		
Office of Policy and Evaluation	17	1,060	18	1,075
Office of the Inspector General	2	130	3	174
Office of the Clerk	23	1,216	22	1,198
Office of Administration	45	2,476	51	2,320
Information Resources Management Division				
Financial and Administrative Management Division				
Personnel				
Equal Employment Division				
(Summer Hires)			4	69
SUBTOTAL	115	6,791	130	7,216
CENTRALLY MANAGED FUNDS**		568		504
LESS REIMBURSEMENTS EARNED***		-82		-56
TOTAL for CASE DECISION AND PROGRAM MANAGEMENT	115	$7,277	130	$7,664

*At the beginning of Fiscal Year 1989, the Office of the Deputy Executive Director for Management was created and the

Office of Legislative Counsel functions were transferred to the Offices of Management Analysis and General Counsel.

**Certain expenses, such as those for the Federal Telecommunications System and those for the National Finance Center, cannot be divided among individual offices so are centrally managed. For budget presentation purposes these expenses are prorated among the four budget functions--that is, Regional Operations, Appeals, Legal, and Case Decision and Program Management (see Budget Justification, page 1).

***The Board earns reimbursements from the Civil Service Retirement and Disability Trust Fund and from interagency details. These reimbursements are used to offset the costs of adjudicating retirement appeals and for other purposes.

OFFICE OF SPECIAL COUNSEL

STATEMENT OF MARY F. WIESEMAN, SPECIAL COUNSEL, OFFICE OF SPECIAL COUNSEL, U.S. MERIT SYSTEMS PROTECTION BOARD

ACCOMPANIED BY:

ERIN McDONNELL, DEPUTY SPECIAL COUNSEL

WILLIAM CALDWELL, DIRECTOR OF MANAGEMENT

INTRODUCTION OF WITNESS

Senator DECONCINI. Our next panel will be the Office of Special Counsel. Ms. Mary Wieseman, Special Counsel, will be the lead witness. We welcome you to the subcommittee. Please be seated and introduce any of your colleagues that are here with you, as soon as you can get by the cramped quarters here.

Please proceed. Your full statement will appear in the record, Ms. Wieseman, and you may summarize it for us.

Ms. WIESEMAN. Thank you, Mr. Chairman. I am pleased to be here today to testify in support of the budget authority request of the Office of Special Counsel for fiscal year 1990.

With me today is Erin McDonnell, Deputy Special Counsel, and William Caldwell, our Director of Management.

Senator DECONCINI. Welcome.

Ms. WIESEMAN. I have a prepared statement which has been submitted to the subcommittee and, in the interest of time, I will summarize that statement and ask that my formal statement be inserted in the record.

Senator DECONCINI. It will appear in the record.

Ms. WIESEMAN. The budget request for the Office of Special Counsel for fiscal year 1990 is $5,142,000. This represents an increase of $142,000 over our current authorized appropriation for fiscal year 1989. This increase in funding, if approved, will permit us to add five FTE positions bringing our total authorized FTE level to 86.

Beginning with fiscal year 1988, our authorized FTE level was reduced to 76. Last year we received authorization to increase our FTE level to 81. Thus, approval of our current funding request will bring us back to the FTE level we had in fiscal year 1987.

Despite the reduction in our staffing levels over the past 2 years, our office has still been able to achieve record results in effecting corrective and other actions on behalf of Federal employees who have been victims of prohibited personnel practices. These results are reflected in my prepared statement.

Nevertheless, the impact of reduction in our FTE ceiling has had a deleterious effect on our operations, particularly in the time required to process complaints and other matters filed with our office. In every instance, the average time to complete initial

review of complaints, conduct investigations, and complete legal review has increased.

Approval of our funding request will enable our office to add sufficient staff to begin the process of arresting and improving the time required to process and respond to employee complaints and other matters filed with the office.

PREPARED STATEMENT

Mr. Chairman, that concludes my statement, and I would be happy to answer any questions you may have.

[The statement follows:]

STATEMENT OF MARY F. WIESEMAN

Mr. Chairman and members of the subcommittee: Thank you for inviting me here today to discuss the budget request for the Office of the Special Counsel (OSC) for fiscal year 1990. Consistent with the administration's budget, the requested budget authority for FY 1990 is $5,142,000, with 86 FTE positions. This represents an increase of $142,000 over the FY 1989 appropriation of $5,000,000, and an increase of 5 FTE positions from the current FTE level of 81.

The Civil Service Reform Act of 1978 (CSRA) requires the OSC to investigate and, if warranted, seek corrective and/or disciplinary action in connection with allegations of prohibited personnel practices, including reprisal for protected disclosures of information. OSC is also authorized to investigate and seek disciplinary action for prohibited political activity, arbitrary or capricious withholding of information under the Freedom of Information Act, involvement of an employee in any prohibited discrimination found by a court or administrative authority, and any other activity prohibited by Civil Service law, rule or regulation. OSC also serves as a safe channel for disclosures by Federal employees of information evidencing waste, fraud and abuse, and for referrals of such information to agencies for investigation and appropriate action.

During FY 1988, the OSC completed 120 field investigations. There were 28 litigation cases initiated by or against the office. Final action was taken on 75.6 percent of the total number of matters and cases in process during the year. In FY 1989, we expect to complete action on about 80 percent of the total workload (1,470 matters of a total 1,837 matters, including 435 matters carried over from FY 1988).

The success of the OSC's work is reflected by the fact that during the past year, the OSC continued to seek and obtain a significantly increased number of corrective actions on behalf of Federal employees who were the victims of prohibited personnel practices, including whistleblowers. The quality of the office's work is also reflected by the fact that the OSC prevailed in 10 cases decided by the Merit Systems Protection Board (MSPB) during FY 1988. Of these, five involved prohibited personnel practices and other violations of Civil Service rules, and five involved Hatch Act violations. In one case, the board granted a stay of proposed personnel actions at the request of OSC, to permit further OSC investigation of alleged prohibited personnel practices. In seven other cases, the OSC obtained stays of personnel action from agencies while the OSC conducted investigations of alleged prohibited personnel practices.

During FY 1988, the OSC referred 46 whistleblower disclosures of fraud, waste or abuse to agency heads for an investigation or report, and referred 45 other matters to agency inspectors general for appropriate action. Based on current trends, we project that the OSC will make approximately 50 referrals to agency heads and 50 referrals to agency inspectors general during FY 1989. The office expects to make about the same number of statutory and inspector general referrals during FY 1990.

OSC has no discretion as to whether it will investigate a matter. The CSRA, at 5 U.S.C. Sec. 1206(a)(1), requires that "[t]he special counsel shall receive any allegation of a prohibited personnel practice and shall investigate the allegation to the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken." The objective of the office is to deal promptly and properly with each allegation or complaint received. We emphasize the resolution of all matters through appropriate investigation, initiation of corrective action and/or disciplinary action when the evidence supports the need for such action, declination of further action in a timely manner when the evidence does not establish a violation of law, and appropriate disposition

of non-meritorious matters or matters not within the office's jurisdiction at the earliest possible stage of review. The OSC's centralized front-end review of all new complaints and allegations has proven to be an effective method of resolving complaints efficiently, properly and on a timely basis.

As a result of the OSC's initial examination of complaints and investigations conducted before and during FY 1988, a significant number of corrective actions, disciplinary actions, and other follow-up actions were initiated or taken during FY 1988. Preliminary figures (pending completion of our annual report to the Congress) show that these included: (33) corrective actions; (8) stays of personnel actions; (11) disciplinary actions, including 10 Hatch Act cases and 1 prohibited activity case; and (6) referrals of violations of law, rule or regulation to agency heads under section 1206(c)(3).

Thirteen of the corrective action matters involved Federal employee whistleblowers. These preliminary figures, however, reflect the positive results of our efforts in the past 2 years to emphasize the aggressive pursuit of corrective actions, both in aid of individual complainants, particularly whistleblowers, and merit system protections for all employees.

Some examples of the corrective and other actions undertaken for whistleblowers and other employees victimized by prohibited personnel practices during the past fiscal year are the following:

—An employee alleged reprisal for expressing his views on perceived discrimination in his agency, in violation of his first amendment rights. The complainant was suspended for 10 days after a local newspaper quoted his remarks. On the basis of his complaint, and our investigation, OSC petitioned MSPB for a stay, which was granted in May 1988, and extended in June. OSC then requested and obtained corrective action from the agency, which rescinded the employee's suspension, with full back pay and benefits.

—A complainant alleged that his probationary appointment as a police officer had been terminated in reprisal for disclosures of wrongdoing by supervisory personnel. Based upon evidence developed during the OSC investigation and an audit by the agency inspector general, I formally reported our findings and recommendations in a letter to the head of the agency. I informed the agency head that the complainant made legally protected disclosures of possible mismanagement and abuse of authority by agency personnel; that supervisory personnel knew of the complainant's disclosures; that the complainant was removed from his position within a short period of time thereafter; and that the stated reasons for the complainant's removal were not supported. Three days after receipt of my letter, the agency head rescinded the complainant's removal and reinstated him with full back pay. Possible disciplinary action of agency officials by my office is also under consideration.

—A complainant disclosed violations of law and regulation to his supervisor. After the disclosures, the supervisor changed the complainant's position description and removed his supervisory duties. In July 1988, the complainant received a notice of abolishment of his position due to a reduction-in-force (RIF). The OSC investigation showed that his superiors knew of the complainant's disclosures, and that the proposed actions were retaliatory. OSC requested a stay of the RIF on August 15, 1988. On August 26, 1988, the agency agreed to stay the complainant's separation, and is considering action whereby the complainant may receive specialized training, thereby negating the need for a RIF.

—OSC received a complaint from an agency inspector general on behalf of an employee. The employee alleged that an agency official solicited sexual favors in exchange for employment, sexually harassed others in the office, and retaliated against her for rebuffing his sexual advances. An OSC investigation supported these allegations. Based on the OSC's findings, the agency reported that action would be taken to suspend the official without pay for 30 days and to downgrade him two grades to a nonsupervisory position.

In our FY 1990 budget submission, we outlined the deleterious effect of the reduction in the office's FTE ceiling on OSC operations, particularly in the time required to take final action on matters and cases. In each instance, the processing statistics have further deteriorated during the first quarter of FY 1989:

—The average age of complaints under initial review increased 18.8 percent—from 32 days to 38 days.

—The average age of matters pending investigation increased 4.3 percent from an average of 269 to 281 days.

—The average age of matters undergoing legal review after investigation increased about 5.5 percent from an average of 433 days to 457 days.

The OSC has no opportunity to earmark any of its budget items for discretionary activities. Personnel, benefits, rent, communications, supplies, comprise well over 90 percent of our budget and any cuts of line items would be reflected in impaired response capability to employee complaints.

During FY 1989, primary emphasis will be devoted to reducing the office's case backlog and to improving response time in relationship to complaints received. In addition to increased staffing, efficiency will be improved by allocating additional resources to travel, equipment, outreach and training. The travel will be increased mostly in the investigations area in order to allow timelier investigation of allegations, thereby expediting the decision on the prosecutorial merits of the complaint; outreach will be expanded in order to educate employees on whistleblowing, prohibited personnel practices, Hatch Act matters, and other activities within the jurisdiction of the OSC; the planned training will enhance the proficiency of the investigators and attorneys, resulting in an improvement in the investigation, analysis and prosecutions of prohibited personnel practices and Hatch Act matters.

This concludes my formal statement which, along with the budget justification, summarizes the need for the budget request of FY 1990 of $5,142,000 and 86 FTE positions, as submitted by the President.

I would be pleased to answer any questions that you or other members of the subcommittee may have at this time.

WHISTLEBLOWER LEGISLATION

Senator DECONCINI. Thank you very much, Ms. Wieseman. I do have a number of questions, and I'm going to submit a lot of them—just some explanations of your budget request for us that you can submit to the record.

I would like to ask you a couple of questions on whistleblower legislation. I noticed that there is no increase in staffing requested to process whistleblower allegations. However, if the compromise legislation is enacted, and it looks like it may go any day now, have you had a chance to analyze what budgetary impact the whistleblower legislation would have on your agency for 1989 and particularly 1990?

Ms. WIESEMAN. I would like to clarify one thing, Mr. Chairman. We do not anticipate, even with the whistleblower legislation, that there will be a significant increase in whistleblower disclosures. Where the increase will most likely occur will be in employees alleging that they have been reprised against, that a reprisal has been taken against them because of whistleblowing.

Our budget differentiates whistleblower disclosures as the function of our office where we receive and transmit to the agencies allegations of fraud, waste or mismanagement for investigation by the agencies and report to our office and submission of those reports to the President and Congress.

With regard to the impact of the proposed legislation on our office, we are in the process of analyzing the legislation and determining what impact it will have on operations. We have not completed that process.

Senator DECONCINI. When will you finish that?

Ms. WIESEMAN. We hope to complete it within the next week or two. The legislation, as we understand it, is proceeding in Congress and there is a 90-day time period before it would become effective, but we are in the process, and my staff has been instructed to analyze the impact.

Senator DECONCINI. Has the Office of Special Counsel been consulted by the administration in the formulation of the so-called compromise?

Ms. WIESEMAN. The President had asked the Attorney General and the Director of the Office of Personnel Management to develop legislation in this area. We have been kept advised of the negotiations and what has occurred during that period.

Senator DECONCINI. What do you think of that compromise, or do you have an opinion?

Ms. WIESEMAN. Yes, I do. We disagree with the basic premise that whistleblower reprisal is an epidemic problem in the Government. We do not see that because whistleblowing takes place in the Government every day; tens of thousands of complaints and disclosures——

Senator DECONCINI. Tens of thousands every day?

WHISTLEBLOWER DISCLOSURES

Ms. WIESEMAN. No; through a year. Disclosures are made every day to the General Accounting Office, the Inspectors General, to supervisors, to Congress, to the press, et cetera. We, historically, have received approximately 250 allegations of reprisals for whistleblowing each year since the beginning of the office's history. The other premise for the legislation, concerning the criticism of the record of our office, I disagree with, and I would point to the General Accounting Office study of our office, which was conducted in 1985.

However, we do support and have supported enhancements of protections for whistleblowers. In fact, several of the enhancements that are in the current legislation were suggested to the Congress by our office. We certainly support that. There are some provisions of the bill which we feel micromanage our office are unnecessary and without benefit to the whistleblowers or the Federal employees and will divert us from our main job, and that is investigating reprisal allegations and determining whether whistleblower reprisal has occurred through the processes that are set up in the bill, but certainly we support and have, in fact, suggested many of the enhancements for whistleblowers' protection.

Senator DECONCINI. You make reference to the 1985 GAO report which concluded whistleblowers' complaints rarely qualified for Office of the Special Counsel protection, which you just said a minute ago. The GAO further found that the Special Counsel had reasonable grounds for closing every case. Therefore, while the Special Counsel performance is not in question, how do you account for the low incidence of cases that qualify for whistleblower protection?

Ms. WIESEMAN. In the General Accounting Office report are listed nine separate categories of reasons why a particular complaint might not merit protection. It ranges from lack of jurisdiction over the agency, to lack of jurisdiction over the official, to documented misconduct or performance problems as independent grounds for the action. There are nine reasons that are listed.

I would say, also, that given the fact that there are disclosures in the thousands made every day in the Federal Government by Federal employees, as I mentioned previously, if there are attempts to take reprisal in the agency, many of those are taken care of before they actually occur by the inspectors general, who are protecting

their own witnesses in investigations. I've been an inspector general, I know that occurs in agencies. In those cases, it doesn't come to the point where a personnel action is actually taken. We get, I believe, the more difficult cases; the cases that could not be resolved within the agency that involve questions of motivation and in many instances involve employees with problems in other areas. I believe we get the more difficult cases.

Senator DECONCINI. Do you know what percentage of cases qualify for whistleblower protection, for example, what percent qualified in 1988?

Ms. WIESEMAN. What I would say is that the complainants that come to our office are alleging that they are a victim of reprisal for whistleblowing. In all cases where our investigation established reprisal under the facts of the case and under the law as the Board has interpreted it, we have been able to obtain corrective action for those employees.

Senator DECONCINI. You have.

Ms. WIESEMAN. Many do not qualify. I am trying to differentiate between employees who believe that they have been the victim of reprisal, and I mentioned the nine reasons the GAO——

Senator DECONCINI. What percentage qualify in a year?

Ms. WIESEMAN. Of all of the allegations that come in—we receive about 250 allegations per year of reprisal for whistleblowing—I think we're in the area of approximately 13 to 15 corrective actions in 1988.

Senator DECONCINI. That's all?

Ms. WIESEMAN. Yes; and it has increased.

BURDEN OF PROOF

Senator DECONCINI. Would the legislation change the burden of proof?

Ms. WIESEMAN. Yes.

Senator DECONCINI. It does, as I understand it.

Ms. WIESEMAN. It does change the burden of proof.

Senator DECONCINI. So you would anticipate probably having more qualify than they did previously.

Ms. WIESEMAN. Yes; the legislation changes the burden of proof by placing a higher burden on the agency to prove that the action they've taken is justifiable on grounds other than the whistleblowing. In fact, that was one of the suggestions that our office made, that that burden be raised to clear and convincing evidence. While we can't anticipate how that language will be interpreted by the Board and the courts, by making the burden more difficult, it should increase the numbers of employees who are able to prove that they have been a victim of reprisal.

HATCH ACT

Senator DECONCINI. Your justification shows that the Hatch Act complaint caseload is steadily increasing. You expect to receive 85 complaints in 1989 and 1990 in the next fiscal year. Can you give me a few examples of the types of complaints that you received and the ultimate decision?

Ms. WIESEMAN. We had a very significant Hatch Act case that was decided this past year by the Board. It was a political coercion case. As the chairman knows, we have authority over State and local employees who work in operations that are financed in whole or in part by Federal grants or loans.

We tried a case of political coercion involving a local housing authority in Ohio last year. The coercion consisted of requests to contribute to the political party, to attend political fund raisers, to work in political campaigns. We were successful. It's the first case of political coercion that the office has ever brought.

We just finished a similar political coercion trial in Buffalo just last week.

Senator DECONCINI. Political coercion by the employer on the employee?

Ms. WIESEMAN. The supervisors of the employees, that's correct. We tried a case last week involving a transit authority in Buffalo.

Those are very significant cases, we think, under the State and local Hatch Act. We feel our office should aggressively pursue the cases where political coercion is an allegation, and we are doing that. These two are very important cases.

Most of our Federal Hatch Act operation involves giving advisory opinions. One of our functions is to advise Federal employees and managers concerning the interpretation of the Hatch Act.

Senator DECONCINI. How many of those do you get out in a year?

Ms. WIESEMAN. Approximately 600.

Senator DECONCINI. 600.

Ms. WIESEMAN. Both by telephone inquiry as well as written inquiry.

Senator DECONCINI. Do you have some qualifying for a written opinion?

Ms. WIESEMAN. Yes; we try to be as responsive as we can to the telephone inquiries. If the matter is settled, if it's clear, we don't require employees to put the matter in writing. We will tell them over the telephone. If it's a complicated question or one that the attorney is not sure of, we ask them to put it in writing.

Senator DECONCINI. Is that 600 written or both?

Ms. WIESEMAN. No; that would be altogether.

Senator DECONCINI. How many are written? What percentage is that?

Ms. WIESEMAN. Maybe 100 or so a year, I think.

Senator DECONCINI. So not too many of them?

Ms. WIESEMAN. No.

SUBMITTED QUESTIONS

Senator DECONCINI. I have some other questions I'll just submit for the record.

Thank you very much for your testimony. Here are Senator Domenici's questions, and we'll send ours over.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR DECONCINI

Senator Deconcini. Your FY 90 budget request is for $5,142 million and 86 positions--an increase of $142,000 and 5 positions over the fiscal year 1989 enacted level. The largest portion of the increase, $121,000, is requested to cover the costs of personnel compensation. The additional 5 positions will be used for investigations of complaints. Your justification, however, states that the 5 positions will be insufficient to clear your backlog of cases. What is your backlog and what would be the optimum level of staff needed to bring it to a controllable level?

Mrs. Wieseman. When we speak of a backlog, we are referring to the deterioration in processing time of cases and complaints. The additional positions will not result in the immediate improvement of the processing time because of the lead-time in filling positions, the time required to train new hires, and the fact that the Office of the Special Counsel (OSC) will have operated at the reduced FTE level for more than two years. The additional positions will permit us to improve the processing time. This improvement will not be immediate, but is expected to occur over a period of time.

Senator Deconcini. Your justification states that while the number of complaints referred to the Special Counsel has not increased since 1987, the average age of the complaints has increased by 56 percent. How will the additional 5 positions help to reduce the time it takes to process your investigations?

Mrs. Wieseman. While the number of complaints has remained steady, we have experienced a reduction in authorized FTEs. In FY 89, we received five additional FTEs, and if this appropriation request is approved for FY 90, we will return to what we consider to be a workable FTE level.

If the OSC were to receive the requested increase in its appropriation, we expect that the deterioration in our processing time would be reversed. However, the turn-around process would not be immediate because the OSC has operated at the reduced FTE level for two years.

Senator Deconcini. Your justification indicates that your projected workload in FY 89 is for 1,400 complaints; what is your projection for fiscal year 90?

Mrs. Wieseman. The FY 90 projected workload is 1,465 complaints. This is without regard to any increase resulting from the anticipated enactment of the "Whistleblower Protection Act of 1989."

Senator Deconcini. While it is absolutely imperative that we design a system that will protect legitimate employees from prohibited personnel practices it is also imperative that agencies have the ability to remove employees for good cause. How would you propose to balance these competing interests?

Mrs. Wieseman. The OSC will implement the law using the new test set forth in the "Whistleblower Protection Act of 1989," assuming its expected passage and enactment into law. The bill, expected to be signed by President Bush, states that employees alleging reprisal for making protected disclosures, and the Special Counsel, must prove that the protected disclosure was a contributing factor in the agency's decision to take a personnel action against the employee. If the employee, or Special Counsel, meets this burden, corrective action will be ordered unless the agency can prove by clear and convincing evidence that it would have taken the same personnel action in the absence of the protected disclosure. Only experience with this test under the new law will determine whether Congress struck the appropriate balance described in your question.

Senator Deconcini. What would be the impact on the Office of the Special Counsel if you had to live with a freeze level appropriation in FY 90?

Mrs. Wieseman. A freeze in the appropriation level for FY 90 would lead to a further deterioration in case processing time, as indicated in the budget justification.

Questions Submitted by Senator Domenici

Senator Domenici. The Office of Special Counsel's budget submission indicates that it expects to receive 1,400 matters in fiscal year 1989 in addition to the 435 matters which were carried over from fiscal year 1988, and that it expects to complete action on 80% of this workload. This would mean that 367 matters are expected to be carried over into fiscal year 1990, in addition to the 1,465 new matters you expect to receive.

With the resources requested, what percent of the projected fiscal year 1990 matters does the office estimate it will complete by the end of the fiscal year? How do you project the number of cases you expect to receive and close in fiscal year 1990?

Mrs. Wieseman. If the five additional staff positions requested in our budget submission are authorized, this will have little initial impact on the time required for processing and investigating complaints during fiscal year 1990. Although these positions are requested for our Prosecution and Investigation Divisions, there is a lead-time before we can complete the hiring process, and complete the training of these new employees once they are hired. Thus, I anticipate that we will continue to complete action on approximately 80% of our caseload during fiscal year 1990. I do believe, however, that the addition of these new staff resources will have the effect of arresting any further deterioration of processing time during fiscal year 1990. Thereafter, we will begin to complete action on more matters on a more timely basis.

Projections of future complaint receipts and closures is based on established trends over several fiscal years; that is, the trend in complaint receipts, and a comparison of workload accomplished to the number of attorneys, investigators and complaints examiners during the period. The impact of external factors, such as increased complaint screening, field investigation, or legal review to determine conformity with legal standards for prosecution established in decisions of the Merit Systems Protection Board (MSPB) or the courts, is also considered.

Senator Domenici. In fiscal year 1988, the Office of the Special Counsel indicates it completed 120 field investigations. How does this compare with the number of investigations completed in each of the previous five fiscal years? What was OSC's total workload in each of these years?

Mrs. Wieseman. The following table is provided in answer to your question:

TABLE 1: OSC FIELD INVESTIGATION WORKLOAD
(Numbers of Matters)

	On Hand at Beginning of Period	Referred for Investigation During Period	Total Workload	Closed During Period
FY85	66	199	265	162
FY86	103	182	285	197
FY87	88	153	241	144
FY88	97	183	280	120

Note: The above information was derived from the OSC's Matters Reporting System. This information was not maintained for fiscal years prior to fiscal year 1985.

Senator Domenici. You indicate that the office prevailed in 10 cases decided by the MSPB in fiscal year 1988. How many cases did you file with the Board in fiscal year 1988? How many did you file in each of the previous five fiscal years, and how many of these did the office prevail in?

Mrs. Wieseman. In answer to your first question, my office filed 11 cases with the MSPB in fiscal year 1988. The budget submission's reference to the fact that we prevailed in 10 cases during fiscal year 1988 does not necessarily relate to the cases filed in that year. In many instances, a case is filed in one fiscal year, and decided in another.

The information relating to the number of cases filed with the MSPB by the OSC is contained in the following table:

TABLE 2: OSC CASES FILED WITH THE MSPB
(Numbers of Cases)

Fiscal Year	Cases Filed
FY83	13
FY84	12
FY85	15
FY86	9
FY87	9
FY88	11
FY89 (to date)	6
TOTAL:	75

Of the total indicated above, the OSC prevailed in 45 cases. The OSC initially prevailed before the MSPB in eight other cases, but these decisions were reversed by the courts. Three cases were dismissed, and the OSC did not prevail in five cases. The remaining 14 cases are still pending.

Senator Domenici. What additional funding would the office require in fiscal year 1990 if the Whistleblower Protection Act is enacted into law?

Mrs. Wieseman. I cannot answer that question at this time. I have asked my staff to evaluate the impact of the Whistleblower Protection Act on our office, particularly on our budget and staffing needs. I anticipate receiving the results of their evaluation for my review in the near future.

Senator Domenici. In your view, how do protections for whistleblowers need to be strengthened?

Mrs. Wieseman. In light of the anticipated passage and enactment of the "Whistleblower Protection Act of 1989," I would not recommend additional enhancements of protections for whistleblowers until some

experience has been acquired under this new legislation, and the impact assessed. I would add, however, that I welcome several of the changes which are contained in the legislation. In fact, many of these changes were first advanced or supported by my office, including the requirement that an agency must demonstrate by clear and convincing evidence that it would have taken the same personnel action in the absence of a protected disclosure. In addition, my office proposed the change that led to the re-definition of a prohibited personnel practice as the proposed or actual taking of a personnel action "because of" a protected disclosure, rather than "as a reprisal for" such a disclosure. This is expected to have the effect of easing the legal burden on the OSC and employees in such cases, by eliminating the need to prove that a personnel action was taken (or not taken) for a bad motive over and above the protected disclosure itself. Finally, we also proposed that threats to take or not to take a personnel action because of a protected disclosure should be made a prohibited personnel practice.

Senator Domenici. In fiscal year 1988, you indicate that OSC referred 46 whistleblower disclosures to agency heads, and 45 other matters to agency Inspectors General. Do you follow up on these referrals? If so, how many of these matters did the agencies take corrective or disciplinary action on?

Mrs. Wieseman. We follow up on statutory referrals to an agency head of whistleblower allegations because, by law, the agency head must submit a report to my office stating whether the allegations have been substantiated or not, and specifying what corrective or disciplinary action, if any, is proposed. Generally, we do not follow up on referrals to agency Inspectors General, from whom a response is not required. In fiscal year 1988, agency heads reported that one or more of the allegations in 27 of the matters referred for an investigation or report to me had been substantiated. In all but one of these matters, actions were taken by the agencies as a result of their

investigations, including changes in agency regulations or practices, disciplinary actions, and referrals to the Attorney General of evidence of criminal violations.

Senator Domenici. In its budget submission, the Office of the Special Counsel indicates the effect past year personnel staffyear reductions have had on OSC actions, particularly on the time required to deal with matters before it. Specifically, in the first quarter of fiscal year 1989, the OSC indicates that the average age of complaints under initial review has increased from 32 to 38 days, the average age of matters pending investigation has increased from 269 to 281 days, and the average age of matters undergoing legal review has increased an average of 433 to 457 days.

How do you expect the response time in these areas to decrease with the additional 5 FTE positions requested for fiscal year 1990?

I note no additional FTE positions are being requested to process whistleblower allegations, but for the investigation and prosecution of prohibited personnel practices. Is this where the backlogs and response time are the highest?

The budget submission indicates that the 5 FTE position increase in fiscal year 1989 over fiscal year 1988 is not sufficient to clear the backlog. Is the 5 FTE position increase requested in fiscal year 1990 sufficient to clear the backlog? If not, what number of additional positions and amount of funding would be required to do this?

What is your goal in terms of the time required to handle complaints under initial review, matters pending investigation, and matters under legal review? What would be an appropriate response time in your view?

Mrs. Wieseman. What we are referring to in our budget submission is a deterioration of the time required to process pending matters. As I indicated earlier, the five additional staff positions requested in our budget submission will have little initial impact on the time required for processing and investigating complaints during fiscal year 1990 because there is a lead-time before we can complete the hiring process, and train these new employees once they are hired. Nevertheless, I believe these new staff resources will have the effect of arresting any further deterioration of processing time during fiscal year 1990, and will gradually enable us to improve the time required to process pending matters.

As to your question about whistleblower allegations, these allegations involve disclosures of wrongdoing, including fraud, waste and mismanagement in the federal government, made directly to the OSC, for which our office can order an agency investigation and report. These should not be confused with complaints from federal employees alleging adverse personnel actions in reprisal for having made such disclosures to the OSC or elsewhere. These are two separate statutory functions performed by our office. The number of disclosures made directly to our office has remained fairly constant in the past four years. Where we see the need for increased staffing is in connection with the resolution of complaints of reprisal for whistleblowing and other prohibited personnel practices, where our processing time has increased. The request for additional staffing will permit us to arrest and reverse this trend.

My goals are that initial screening of a complaint should be accomplished in 45 days or less; investigation of a matter referred for further inquiry should be accomplished in 190 days or less; and legal review of a matter following investigation should be accomplished in 80 days or less. These goals have been established in view of current staff resources and workload; however, these goals are always subject to review, and, when possible, I intend to set goals for processing matters more expeditiously.

Senator Domenici. The Office's budget submission indicates that the average age of pending matters increased from 109.9 days on October 1, 1987, to 172.3 days at the end of fiscal year 1988. What does it look like the age of pending matters will be at the end of fiscal year 1989?

Mrs. Wieseman. The average age of pending matters at the fiscal year 1989 midpoint is about 190 days. I have recently implemented procedures which will reduce processing time at all stages of the OSC review process, particularly in the Investigation and Prosecution

Divisions. These procedures should enable the OSC to maintain this average processing time for pending matters during fiscal year 1989, if not reduce it.

Senator Domenici. Of the OSC's total caseload in fiscal year 1988, how many matters were dismissed because they were either non-meritorious or not within the office's jurisdiction? How long did it take the OSC to handle such cases, on average?

Mrs. Wieseman. The OSC does not dismiss matters because they are non-meritorious. Rather, we investigate every complaint filed with our office to determine whether there are reasonable grounds to believe that a prohibited personnel practice has occurred or is occurring. Our Complaints Examining Unit (CEU) has the responsibility to conduct a preliminary investigation of each complaint in order to make such a determination. If the Unit closes a matter, it is because its inquiry has established that there is insufficient evidence that a prohibited personnel practice has occurred or may be occurring, or because the matter is not within our jurisdiction. In other cases, where factual issues cannot be resolved without further investigation, the matter is referred to the Investigation Division. In fiscal year 1988, the CEU closed 1,115 matters, due either to a lack of sufficient evidence of a prohibited personnel practice, or to lack of OSC jurisdiction. This represents 78.9% of the total complaints acted upon by the Unit during that fiscal year. Parenthetically, this closure rate is very similar to the initial closure rates of other investigative agencies such as the General Accounting Office and the various federal Inspectors General. The CEU referred 183 matters for further inquiry by the Investigation Division (12.9%), and referred an additional 114 matters to the Whistleblower Unit for its review (8.0%). With respect to the 183 matters referred for a full investigation, investigations were completed on 40 of these matters in fiscal year 1988. Of these 40 matters, 14 matters were closed by the OSC after investigation and

legal review because of a lack of sufficient evidence or because the allegations were disproved; five of these matters resulted in corrective actions; one matter resulted in disciplinary action; and the remaining 20 matters were pending in the Prosecution Division for legal review at the end of the fiscal year. In fiscal year 1988, the average time required to receive, review and close a matter in the CEU was 74.3 days; the average time to complete a full investigation of a matter was 255.4 days; and the average time for post-investigation legal review of a matter was 119.4 days.

Senator Domenici. The budget submission indicates that in fiscal year 1988, personnel were allocated to the initial review of complaints resulting in a major reduction in the backlog in the Complaints Examining Unit but that this caused a significant increase in the backlog of the Investigation and Prosecution Divisions. Given this result, was this a wise allocation of resources, even on a temporary basis? If so, why?

Mrs. Wieseman. It became obvious to me during fiscal year 1988 that the time required for initial review and investigation of complaints was approaching an unacceptable level; therefore, I detailed additional personnel to the CEU. Clearly, given finite staff resources, my decision had the effect of increasing processing time in other areas, but it must be noted that most of the matters we receive are resolved in the CEU. I consider my decision to have been an appropriate one. Once we were able to increase staff resources pursuant to our fiscal year 1988 authorization, I was able to reallocate staff to other operational areas, while maintaining a reasonable processing time for initial complaint reviews and inquiries.

Senator Domenici. The budget submission also indicates that the Planning and Oversight Division was disbanded during fiscal year 1988 and its work was shifted to the operating offices. Has the elimination of this Division had a detrimental impact on the office's oversight and review of OPM regulations; its evaluation of merit system activities; and its proactive investigation of suspected improprieties absent formal complaints? If yes, please describe what the impact has been. How many FTE positions were associated with the Planning and Oversight Division before it was disbanded?

Mrs. Wieseman. All of the functions previously performed by the Planning and Oversight Division, and the associated staff positions, were transferred to our Management, Investigation and Prosecution Divisions. This decision has had no detrimental impact with respect to the functions of our office identified in your question. Prior to being disbanded, five FTE positions were associated with the Planning and Oversight Division.

GENERAL SERVICES ADMINISTRATION

STATEMENT OF RICHARD G. AUSTIN, ACTING ADMINISTRATOR

ACCOMPANIED BY:

RAYMOND A. FONTAINE, COMPTROLLER
BILL EARLY, DEPUTY COMPTROLLER FOR BUDGET
JOHN MITRISIN, PUBLIC BUILDINGS SERVICE

INTRODUCTION OF WITNESSES

Senator DECONCINI. Gentlemen, welcome. Our next agency is the General Services Administration. We are very pleased to have Mr. Richard Austin, Acting Administrator of GSA, and Mr. Ray Fontaine, Comptroller, as our lead witnesses. We welcome you gentlemen. Your full statements will appear in the record. We want to introduce Mr. Early; he's well known here, but we'll show that for the record he is here. We welcome a summary of your statement, Mr. Austin.

OPENING STATEMENT

Mr. AUSTIN. Thank you, Mr. Chairman. Mr. Chairman, the growth in GSA's budget this year is very nominal. The actual appropriation is approximately $257 million. That represents about a 2-percent real growth. The overall budget is approximately $8.1 billion, made up principally of revolving funds for services that we provide, whether those services be through the Federal Supply System, through Information Resources Management, or through the Public Building Service.

As a result of efforts on behalf of GSA to reduce staff, our full-time employee equivalent is now 19,254 personnel; approximately 181 below the 1989 levels. There has been a significant drop in employment over the last 8 years from a high of approximately 35,000 employees.

We have a number of ambitious programs going on within GSA. Examples of those programs are the child care efforts within the PBS area and space reduction. I'm pleased to tell you today, Mr. Chairman, that through our efforts we actually have not only reached the 135-square-foot goal in new space assignments, we're actually seeing about a 122-square-foot utilization rate, which is constraining the growth of Government in many instances, although our customer agencies' space requests are expanding. Last year we delivered about 2.7 million new square feet of space on behalf of the Federal Government.

Within the IRMS, we have stepped forward——

Senator DECONCINI. Excuse me, Mr. Austin. When you say new, that's not replacement. You're talking about expansion or new space, correct?

Mr. AUSTIN. Yes, sir.

Senator DECONCINI. Thank you.

Mr. AUSTIN. Within the IRMS area we have, as you well know, sir, awarded the FTS 2000 contract and are in the process of implementing the contracts. When the two networks are fully implemented, the Federal Government is estimated to save approximately $200 million annually. The actual savings will depend on the amount and type of services used by the Government over the 10-year life of the awards.

Along with that we have awarded WITS contract, which is the contract for the Washington Interagency Telecommunications System and the TAMS contract which provides technical assistance and management services in support of FTS 2000.

DISPOSAL SITES

Within the FPRS area, we have been somewhat reduced in our ambitious effort to dispose of excess surplus property through the implementation of the McKinney Act. However, we have been working very closely with HUD and with HHS. We now have approximately 343 sites identified as potential disposal sites and are moving to identify out of that number the sites that will actually go to the homeless.

WAREHOUSE FACILITY/BURLINGTON, NJ

Within the FSS area, we awarded the new warehouse system for Belle Mead, NJ, which will provide a new, modern warehouse facility to include current technology materials handling equipment and stock selection conveyance systems. The new system will be located in Burlington, NJ.

PREPARED STATEMENT

I have also with me today, Mr. Chairman, representatives of all the services, and we will be prepared to answer questions in which you may have an interest.

[The statement follows:]

STATEMENT OF RICHARD G. AUSTIN

Mr. Chairman and Members of the Subcommittee: I am pleased to appear before you today in support of the fiscal year 1990 budget request for the General Services Administration (GSA).

GSA is the Federal Government's central administrative policy unit, and performs a variety of regulatory, management, and support functions. These include management and oversight of Federal real property, ADP, and telecommunications programs; helping to set acquisition policy; disposing of surplus Federal property; and centrally providing goods and services to agencies when this has quality or cost advantages.

Before discussing specifics, I would like to put GSA's budget in perspective. Planned obligations in fiscal year 1990 total over $8.1 billion to perform the agency's varied missions. Most of this, however, is funded by our customers in the form of reimbursement for services, rental payments for the space they occupy, or payments to revolving funds for the purchase of goods and services.

Only a very small part of our financing, less than 4 percent, comes from new direct appropriations. And, in the budget, even that part is more than offset by the receipts and collections we generate.

The agency's fiscal year 1990 employment is budgeted at the full-time equivalent (FTE) of 19,254 personnel, about 181 below the current 1989 levels. This net decrease

results from expected savings associated with the contracting-out process. We believe that we have reached a basically stable work force after a period of substantial reduction. Since 1981, GSA's average employment has decreased by over 43 percent, almost 15,000 positions.

I would now like to highlight the major features of our budget proposal for the fiscal year 1990. Excluding amounts realized under permanent authority, we are requesting $254.9 million in new appropriations from this Subcommittee. This is a net $9 million more than enacted for 1989, and essentially supports ongoing programs at or below current levels.

There are a few program increases within the net change. The largest, for $6 million, expands our efforts to relocate agencies from underutilized to more suitable sites, permitting the sale of valuable surplus properties (in compliance with the Stewart-McKinney Act). We also plan on increasing protection and maintenance of our surplus real property inventory. An additional $1.6 million is required for the conversion of our Personnel Information Resources Systems, and a modest $.8 million increase will enhance audit and investigative support in our Office of the Inspector General. There will also be increased requirements for allowances and office staff for an additional former President.

Apart from these selected initiatives, the remaining programs under appropriated accounts increase by less than 2 percent. This will require continuing effort to streamline operations and achieve savings to offset the impact of enacted pay raises and inflation.

We are also asking the Subcommittee to approve $3.4 billion in new obligational authority, or authority to spend income, for fiscal year 1990 Federal Buildings Fund activities. This is $335.7 million above the level enacted for 1989, and will allow GSA to continue providing real property services at current levels while meeting the most critical capital requirements.

$244.5 million is budgeted for the construction and acquisition of facilities. Most of this, $210 million, is associated with one project, the Environmental Protection Agency Headquarters in Washington, D.C. Other projects are for facilities for the U.S. Courts and to meet specialized needs that cannot be met through leasing, such as border stations.

Proposed 1990 funding for the repairs and alterations of public buildings is $438.2 million, a decrease of $94.7 million from amounts provided in fiscal year 1989. The program continues to emphasize repair and modernization and projects related to the health and safety of employees. Also included is $25 million to continue the program begun in 1988 for improvements to U.S./Mexico Border Facilities.

Rounding out the capital program is $157.1 million budgeted for design and construction services activities. These include the full range of design, design and contract review, and technical services required to support the Construction and Repairs and Alterations programs.

Under 1990 Federal Buildings Fund operating programs, $129.8 million is requested for payments of principal, interest, and taxes on 62 facilities built under purchase contract arrangements; this is slightly below last year's level. $1.4 billion for Rental of Space reflects ongoing costs of current leased space as well as agency expansion acquired in 1989 and 1990, and over $94 million in commercial rate increases. Ongoing real property operations will require $968.3 million in fiscal year 1990 for facility cleaning, operation, maintenance, protection, fuels and utilities, and other services. Last, $70.5 million under the Program Direction activity supports overall management of the real property program, as well as a number of common support functions.

In summary, we believe that the proposed fiscal year 1990 budget program for GSA is a balanced one that accomplishes the highest priority efforts within requested authorities and available revenues.

Mr. Chairman, this concludes my highlights of the budget program, and I would be pleased to answer any questions from the Subcommittee.

CAPITAL IMPROVEMENTS—UNITED STATES/MEXICAN BORDER

Senator DECONCINI. Thank you, Mr. Austin. In fiscal year 1988, we authorized a major capital improvement program for the renovation, replacement, and construction of inspection facilities along the United States/Mexico border. There was authorization for 47 specific projects as well as any other projects necessary to facilitate border crossing. Where do we stand on the program? How much

have we appropriated to date? How many projects have been identified for upgrading? How much additional funding is necessary to complete the projects, and when will the program be completed? I hope we gave you warning that that question would come up. [Laughter.]

Mr. AUSTIN. Mr. Chairman, of the 66 line item projects received in fiscal years 1988 and 1989, GSA will fully fund 47 in the fiscal year 1990 budget and proposed fiscal year 1989 reprogramming, if they are approved. Two have been canceled: Marathon and the Firing Range at Otay Mesa, and 17 will receive final funding in the out years. Our strategy is to fully fund most of the small projects with the fiscal year 1989 reprogramming that corrects the problems of the fiscal year 1989 appropriation.

The fiscal year 1990 budget also fully funds two more small projects: Lukeville and Douglas, AZ. The estimated total program cost is approximately $276 million, with $168 million needed to be funded in fiscal year 1991 or later.

In the 1989 reprogramming, we will provide $11.9 million in already appropriated funds to fully fund 15 projects and provide additional funds, but not complete funding, to four others. The funds for the reprogramming come from projects which were either overfunded in fiscal year 1989 appropriations or projects that do not require funding until fiscal year 1990 or later.

The primary sources are a large project in Santa Teresa, $1.7 million; Del Rio, $2 million; Bridge of the Americas, $1 million; and Juarez Lincoln, $4.2 million.

Mr. Chairman, if I may, I have a considerable number of pages here which address each one specifically. Could I enter those into the record?

Senator DECONCINI. Please. Thank you very much.

[The information follows:]

BORDER STATION SUMMARY - REGION 7

1 March 1989

PROJECT	FY 88 Approp.	FY 89 Approp.	FY 89 Reprogram	FY 90 Budget	Project Description
ANTELOPE WELLS, NEW MEX.					
1. Glass/TV/Housing	$299,000	$158,500	($107,500)	$0	security improvements; roof replacement; minor R&A & 2 houses. Station owned by Customs. PROJECT FUNDED IN 89
COLUMBUS, NEW MEXICO					
1. Glass/TV	$200,000	$236,300	($235,300)	$0	install bullet resistant glass/TV monitors, kennels,and a secondary head house; prospectus for upgrade/expansion of facility previously approved (FY87) and Completed 12/88. PROJECT FUNDED IN 89
SANTA TERESA, NEW MEXICO					
1. Design and build new station	$378,000	$1,668,000	($1,468,000)	$0	Do design for new station. Awaiting Diplomatic Note to begin work. FUND IN OUTYEARS
NM Subtotal	$877,000	$2,062,800	($1,810,800)	$0	
AMISTAD DAM, TEXAS					
1. R&A	$0	$83,400	$67,000	$0	renovation and canopy . PROJECT FUNDED WITH 89 REPROGRAM
BROWNSVILLE, TEXAS					
Gateway Bridge					
1. Security	$32,000	$218,000	$0	$0	security cameras, T.V., and duress alarms. PROJECT FUNDED IN 89
2. Lane expansion	$196,135	$1,253,865	$0	$0	Expand from 4 to 6 primary lanes,and 8 to 10 secondary lanes. PROJECT FUNDED IN 89
3. R&A/Extension	$1,200,000	$4,311,135	$3,488,000	$0	renovate existing building and bring into compliance with fire/safety/handicapped requirements Purchase land and construct 100 truck facility. PROJECT FUNDED WITH 89 REPROGRAM
4. New bridge	$0	$0	$480,000	$0	design new facility at proposed new bridge. FUND WITH 89 REPROGRAM
B&M Bridge					
1. Replace station	$1,173,000	$1,794,300	$1,433,000	$0	Cons't gov't owned facility replacing leased station. Expand 3 to 4 primary lanes, 5 to 12 secondary, and new 15 truck deck. FUND WITH 89 REPROGRAM
Los Indios					
1. New station	$587,000	$105,700	$0	$1,535,000	design and construct new border crossing facility; Mexico financing still issue. Awaiting diplomatic note. FUND IN 90 OUTYEARS
DEL RIO, TEXAS					
1. Security	$250,000	$0	$0	$0	security work including cameras and glass. PROJECT FUNDED IN 88

PROJECT	FY 88 Approp.	FY 89 Approp.	FY 89 Reprograms	FY 90 Budget	Project Description
2. Lane expansion	$445,000	$597,700	$477,000	$0	Expand 2 to 3 primary, 5 to 9 secondary & 3 to 12 truck dock. FUND 89 REPROGRAM
3. Replace station	$3,465,000	$0	($2,000,000)	$0	site, design, and construction of station extension; now fund for master plan, concepts and land acquisition. FULLY FUND IN OUTYEARS
EAGLE PASS, TEXAS					
1. Security/R&A	$480,000	$2,251,800	$396,000	$1,402,000	Station renovation, expand 3 to 5 primary, 13 to 15 secondary, & 10 to 26 truck dock, security work. PROJECT FUNDED IN 90
EL PASO, TEXAS					
Bridge of the Americas					
1. Design/R&A	$442,200	$1,700,300	($1,000,000)	$7,208,000	Renovate building & dock, expand 8 to 9 primary lanes & 26 to 100 truck dock. more line relief booths & pave more of truck lot area. PROJECT FUNDED IN 90
2. Paving	$850,000	$0	$0	$0	pave import lot. PROJECT FUNDED IN 88
Paso del Norte					
1. Extension/R&A	$2,850,000	$639,400	$511,000	$0	Renovate existing building, expand headhouse, add border patrol facility, expand primary lanes from 8 to 9, security work. FUND PROJECT WITH 89 REPROGRAM
Ysleta					
1. Design/construct	$2,651,320	$1,501,200	$525,000	$0	Additional funding for authorized project. Awaiting diplomatic note. PROJECT FUNDED WITH 89 REPROGRAM.
FABENS, TEXAS					
1. Glass/TV/Site Acquisition	$100,000	$444,800	$355,000	$0	install bullet resistant glass and TV monitors; resolve water contamination problems; acquire land for future expansion. PROJECT FUNDED WITH 89 REPROGRAM
FALCON DAM, TEXAS					
1. R&A	$400,000	$172,400	$130,000	$0	office space & security improvements. FUNDED WITH 89 REPROGRAM
FT. HANCOCK, TEXAS					
1. Glass/TV	$100,000	$0	$0	$0	Security improvements. PROJECT FUNDED IN 88
HIDALGO, TEXAS					
1. Safety/design/R&A	$289,510	$617,200	$493,000	$0	modifications for safety and efficiency through expansion of pedestrian processing area, security work &truck dock & lot. Leased stationd. FUNDED WITH 89 REPROGRAM

PROJECT	FY 88 Approp.	FY 89 Approp.	FY 89 Reprogram	FY 90 Budget	Project Description
LAREDO, TEXAS					
Juarez-Lincoln Bridge					
1. Site/design/R&A	$5,745,000	$1,668,000	($4,141,400)	$0	Expansion of commerical truck dock, looking at double decker dock on existing site as alternative to complex site purchase. FULLY FUND IN OUTYEARS
Railroad Bridge					
1. Replace	$18,000	$0	$0	$0	lease new facility from railroad; incur design costs. PROJECT FUNDED IN 88
Convent Street					
1. Design upgrade	$841,716	$1,473,400	$1,458,800	$0	renovate old station. Fund project with 89 reprogram
New Bridge (Colombia)	$0	$278,000	$592,000	$0	design station for possible new bridge. FUNDED WITH 89 REPROGRAM
LOS EBANOS, TEXAS					
1. Replace station	$150,000	$0	$100,000	$0	modular building to replace current facility; no new bridge crossing to replace ferry. Station owned by IWS. Issue of value enhancement. FUNDED WITH 89 REPROGRAM
MARATHON, TEXAS					
1. Repair	$0	$0	$0	$0	manned by part-time inspector; Customs CANCELLED PROJECT
PRESIDIO, TEXAS					
1. Security/Housing	$300,000	$556,000	($556,000)	$0	install security devices; expand office for enforcement. FUNDED IN 88
PROGRESSO, TEXAS					
1. Security/R&A	$255,000	$222,400	$123,000	$0	install security devices; expand secondary booth, new office space, widen truck dock. FUND WITH 89 REPROGRAM
RIO GRANDE CITY, TEXAS					
1. Improvements	$60,000	$0	$0	$0	Security work, expand building, expand from 1 to 2 primaries, 4 to 6 secondaries, 6 to 8 new truck dock, fund through lease. FUNDED IN 88
ROMA, TEXAS					
1. Safety	$630,000	$305,800	($305,800)	$0	Security work, widen truck dock & kennels. PROJECT FUNDED IN 88
TX Subtotal	$22,990,875	$20,194,800	$1,810,800	$10,145,000	
Region 7 Subtotal	$23,867,875	$22,257,600	$0	$10,145,000	

PROJECT	FY 88 Approp.	FY 89 Approp.	FY 89 Reprograa	FY 90 Budget	Project Description
ANDRADE, CALIFORNIA					
1. R1A/Safety	$243,000	$241,918	$0	$0	Security work; new bathroom; signs; employee parking. FUNDED IN 89
2. New Station	$0	$212,382	$0	$0	New station. Buy site, Indian land issue. FUND IN OUTYEARS
CALEXICO, CALIFORNIA					
1. New commercial station	$880,000	$0	$0	$0	New station. Buy site now, start design. FUND IN OUTYEARS
2. Safety/Asbestos	$655,000	$4,830,900	$0	$0	Security and asbestos removal. FUND IN OUTYEARS
3. R1A	$628,790 $0	$0	$0	$1,075,000	R1A, possible expand 8 to 10 primaries & 22 to 24 trucks. New booths. FUND IN OUTYEARS
SAN YSIDRO/OTAY MESA, CA					
1. R1A/Virginia St.	$75,000	$140,983	$0	$0	security work and general upgrade of facility. Dependent on Mexico & Otay Mesa project. FUND IN OUTYEARS
2. Safety San Ys/Otay	$2,350,353	$2,673,900	$0	$1,047,000	asbestos removal S.Y.; overpass screens & other safety.coordinate with asbestos. FUND IN OUTYEARS
3. R1A	$1,172,980	$744,000	$0	$0	R1A to existing facility including dock extension, 4 new lanes and booths, expansion of pedestrian area, and facilities to unload railroad cars; do design. FUND IN OUTYEARS
4. Firearas range	$350,000	$0	($350,000)	$0	firearas range CANCELLED
5. Reconfigure lanes	$95,520	$0	$0	$0	reconfigure inspection lanes. FUNDED IN 88
6. Signs/security	$517,000	$3,461,217	($1,500,000)	$0	signs & security equipment. PROJECT FUNDED IN 89
7. New Facility/Otay	$6,500,000	$721,700	$0	$0	116 acres & construct lot & docks. do design and site. FUND IN OUTYEARS
8. Improve comm. lot	$456,950	$610,000	$0	$4,302,000	renovation of the existing truck lot including new booths, dock and other improvements. PROJECT FUNDED IN 90

BORDER STATION SUMMARY REGION 9

1 March 1989

PROJECT	FY 88 Approp.	FY 89 Approp.	FY 89 Reprogram	FY 90 Budget	Project Description
DOUGLAS, ARIZONA					
1. New facility	$0	$0	$172,000	$0	Future commercial station, will buy land now. PROJECT FUNDED IN OUTYEARS
2. R&A	$228,600	$820,700	$0	$83,000	Interior renovations, kennel, paving. FUND IN 1990
3. Safety items	$118,000	$0	$0	$0	Security work. PROJECT FUNDED IN 88
LUKEVILLE, ARIZONA					
1. R&A	$148,000	$229,100	$0	$116,000	Repair roof,sidewalks & roads, better water. PROJECT FUNDED IN 90
2. Safety	$65,000	$0	$0	$0	Security work. PROJECT FUNDED IN 88
NACO, ARIZONA					
1. New facility	$0	$320,900	($177,860)	$0	new facility . Acquire site. FUND IN OUTYEARS
2. R&A	$210,000	$0	$0	$0	Painting, carpets, interior renovations. FUNDED IN 88
3. Safety	$32,000	$0	$0	$0	Security work. FUNDED IN 88
NOGALES, ARIZONA					
Grand Ave./Morley Gate					
1. R&A	$0	$0	$1,249,000	$3,943,000	Complete renovation of station. FUND IN OUTYEARS
2. Safety	$182,000	$0	$0	$0	Security work. PROJECT FUNDED IN 88
3. New station	$439,310	$2,420,900	$0	$0	Remodel station in conjunction with R&A project. FUNDED IN 89
Mariposa (Nogales West)					
1. R&A	$350,330	$644,300	$0	$4,289,000	Renovate station, new booths, widen roads, add 1 primary. FUND IN 90
2. Safety	$40,500	$102,500	$0	$0	Security work. FUNDED IN 89
SASABE, AZ (new project)					
1. New Facility	$0	$255,300	($106,200)	$0	New facility, buy site now. FUND IN OUTYEARS
2. R&A	$0	$66,000	$0	$0	Minor R&A. FUNDED IN 89.
3. Safety	$0	$34,000	$0	$0	Security work. FUNDED IN 89
SAN LUIS, ARIZONA					
1. R&A	$117,500	$499,300	$213,000	$0	R&A, expand 4 to 6 primaries, 8 to 16 truck dock, kennels. FUNDED IN 89 REPROGRAM
2. Safety	$69,100	$0	$0	$0	Security work. PROJECT FUNDED IN 88
AZ Subtotal	$1,998,740	$5,393,000	$1,350,000	$8,431,000	

PROJECT	FY 88 Approp.	FY 89 Approp.	FY 89 Reprogram	FY 90 Budget	Project Description
TECATE, CALIFORNIA					
1. New Station	$130,600	$705,405	$500,000	$0	New station and truck facility. Buy site. FUND IN OUTYEARS
2. R1A	$756,272	$156,395	$0	$0	Security work and R&A. PROJECT FUNDED IN 89
CA Subtotal	$14,811,465	$14,498,800	($1,350,000)	$6,424,000	
Region 9 Subtotal	$16,810,205	$19,891,800	$0	$14,855,000	
Region 7 Subtotal	$23,867,875	$22,257,600	$0	$10,145,000	
PROGRAM TOTAL	$40,678,080	$42,149,400	$0	$25,000,000	

John Mitrisin
Office of Facility Planning
523-5340

FUNDING OF BORDER FACILITY PROJECTS

Senator DECONCINI. I want to thank the GSA for taking this initiative very seriously and for being aggressive on our border facility improvements. I have seen some of them, and they are moving along. If you've spent any time down there, you find it hard to understand why so many Mexican nationals want to come across the border. It doesn't look very welcome when you come to the U.S. border, but that is improving, and I think GSA is playing a major role.

In fiscal year 1990, you propose $25 million to fund 10 border facility projects, and I am pleased that 4 of those scheduled projects out of the 10 happen to be in Arizona. However, I'm concerned that the budget request is insufficient to keep us ahead of the curve on plans to meet growing passenger and commercial demands at the border. Are the projects you've selected for funding in fiscal year 1990 on the priority list of the Border Trade Alliance? Will you be able to meet these priorities with this amount of money?

Mr. AUSTIN. Mr. Chairman, I believe that we will be able to meet the need. As to their inclusion on the list, I would have to defer to Mr. Mitrisin from the Public Buildings Service to answer that question, if I may, Mr. Chairman.

Senator DECONCINI. Sure, please.

Mr. MITRISIN. GSA coordinates with the Border Trade Alliance on a regular basis. The concerns of the border trade community as well as the requirements of the inspection agencies are used to formulate budget priorities.

Senator DECONCINI. So what you are saying is that the 10 projects can be fully funded out of this $25 million, that you propose $25 million to fund the 10 border facility projects, and that they are on the priority list of the Border Trade Alliance. Excuse me for asking two questions in one. Is the answer yes to both of those?

Mr. MITRISIN. The answer is yes. On some of the projects that we are talking about funding in 1990, there would be some additional funding needed in the outyears to complete them.

Senator DECONCINI. I see.

Mr. MITRISIN. But GSA can go forward with portions of those projects out of the 1990 funding.

Senator DECONCINI. The $25 million, is it fair to say, is your full capability for 1990?

Mr. MITRISIN. Yes, sir.

Senator DECONCINI. That's as much as you could conceivably spend on these 10 border facilities even though you can't complete them all.

Mr. MITRISIN. That is correct.

Senator DECONCINI. I see, OK.

Mr. FONTAINE. Again, Mr. Chairman, if we thought some of them could be accelerated, we would come back to our committees with a reprogramming request.

Senator DECONCINI. Or if there are excess funds, as there has been in others——

Mr. FONTAINE. Right, if there are slippages or other problems.

NOGALES, AZ—BORDER STATION

Senator DECONCINI. I am interested in the border facility, Mr. Austin or Mr. Fontaine, maybe you are familiar with this, that is planned for Nogales, AZ. You have been down there, I think, on two occasions to meet with the business community and the various border agencies. Do you have a status report on where that project stands? You may supply that for the record.

Mr. MITRISIN. Could I speak to that?

Senator DECONCINI. Yes, please. What is your name?

Mr. MITRISIN. John Mitrisin.

Senator DECONCINI. John Mitrisin. Glad to have you. Let the record show that you're here on behalf of GSA, also.

Mr. MITRISIN. At Nogales we are moving forward with design on both the Grand Avenue and the Mariposa Station. We have worked closely with the inspection agencies and with the local people in Nogales.

Senator DECONCINI. When was the last time you were down there to meet with the business people and the inspection agencies; do you know?

Mr. MITRISIN. Our last meeting with the Border Trade Alliance, Nogales representatives, was held in Mexico City on February 21 and 22, 1989. We have an architect engineer on board doing the preliminary design work for both of the Nogales stations.

At the Grand Avenue Station, the design is practically completed. We will be having a meeting in April in region 9 in San Francisco with the inspection agencies where the architect engineer will again go over the design requirements.

At these meetings, we have the inspection agencies also present. We have a spokesman for each agency, and we come to an agreement on the design concepts. Once we do that, we will go forward with the final design on the project and then start construction.

Senator DECONCINI. Will there be any further opportunity for the local business community to at least observe or to be apprised of what your design is?

Mr. MITRISIN. Oh, yes. The architect/engineer has had discussions with the local people.

Senator DECONCINI. No; but now you're going to the next step into the final design. Before that's done, will they get an opportunity to look at that at all? I'm not asking that they be given any veto power, but it's very helpful if they feel like they at least get a chance to look at it and say they don't like this because of these reasons. You guys are the professionals. You're going to make the decision, but I think it's very helpful—I know it's very helpful to me, if they have an opportunity, and I think it's good for GSA and for the inspection agencies. I just want to know if the community is going to have any further opportunity to review those design changes before they are finalized.

Mr. MITRISIN. Yes; they would be told about what we are doing and have some more input into it.

Senator DECONCINI. And they would get a chance to look at it and at least make comments?

Mr. MITRISIN. Yes, sir.

Senator DECONCINI. That's very helpful, and I thank you for that.

A recent survey completed by U.S. Customs, Mr. Austin, indicates that it is not uncommon to have 2- to 4-hour waits at San Ysidro and Calexico; not only because of insufficient staffing, but also because of outdated facilities. I know you work closely with the border trade community, Customs, INS, and other agencies in the design of these facilities, but can you tell me whether or not our current plans for the San Ysidro and Calexico facilities will be out of date by the time they are built, and how much long-range planning is involved to anticipate the increased growth that seems to be coming through some of these ports?

Mr. MITRISIN. At Calexico there was an incident in which there were some fatalities on the Mexican side because of a long wait. GSA has looked into this issue and has worked with the inspection agencies. The inspection agencies now have additional manpower at Calexico and the maximum wait, as I remember it, is 15 minutes for people to come through the station.

Senator DECONCINI. That's what is planned now?

Mr. MITRISIN. That is, in fact, operating.

Senator DECONCINI. That is operating now?

Mr. MITRISIN. A 15-minute wait at the downtown station in Calexico. We are also in a design process on that station to do expansion work to provide additional primary lanes and additional secondary lanes, as well as asbestos removal on that facility.

There is also a new station which is planned outside of town at Calexico. We are in the process of looking for the site for that station.

Mr. AUSTIN. If I may, Mr. Chairman, also as a result of the incident that happened at Calexico, we did send a team in to see what could be done, in the interim, to reduce the backup coming across the border, and we have discussed with the inspection agencies the opening of additional lanes to reduce the backup.

The incident that happened was very unfortunate, and we were as concerned about it as I'm sure that you and other individuals were. The real problem in that instance, however, was that all of the lanes were not opened and not manned at that time.

Senator DECONCINI. They were not staffed?

Mr. AUSTIN. That's right, sir. I'm not saying that that relieves us from our responsibility, and we are trying to find alternative options.

Senator DECONCINI. I don't think it relieves any of us of total responsibility, but I think it is awfully important, if you are satisfied, Mr. Austin, that you've done the maximum, and you have planned for the future. That people are or aren't there to staff it and open the lanes, that is not your obligation and responsibility. I guess my question really comes down to your planning. How far ahead do you look in projecting how much growth will come through a port like Nogales, AZ, which is the fastest growing port, I believe, of any in the district? Do you take into account what the rate of growth has been over the last year or 5 years and try to project

that out, so that after we finish Nogales in a couple of years, we're not back saying gosh, we didn't do enough?

Mr. AUSTIN. In trying to work with the inspection agencies, whether it be INS or Customs, we don't have on a routine basis the numbers or the volume of flow coming through, and to a certain extent we respond to them as they identify the needs, whether it be on the Mexican border or, for that matter, on the Canadian border. We right now are planning out into 1993/1994 in terms of areas to further develop. They have projects which will be completed out into the outyears. But, again, Mr. Chairman, we tend to be more responsive to the stimulation by the inspector agencies and the identification of needs that they might have as opposed to us trying to identify the needs.

Senator DECONCINI. So you kind of ask them to do these projections and let you know.

Mr. AUSTIN. Yes, sir.

BROWNSVILLE, TX, BORDER STATION

Senator DECONCINI. At Brownsville, it's been 2 years since I was there. When I was there last, you were in the process of removing the asbestos, and I think you were also building a freight station away from the border, in my recollection; is that correct?

Mr. MITRISIN. I think you are referring to the Gateway Station.

Senator DECONCINI. The Gateway Station; is that finished?

Mr. MITRISIN. No, sir.

Senator DECONCINI. Where is that one?

Mr. MITRISIN. At the Gateway Station, we are planning expansion of the commercial facility there.

Senator DECONCINI. At another site, is it?

Mr. MITRISIN. Yes; at Gateway there is a desire for an additional offsite inspection site for commercial vehicles.

Senator DECONCINI. Has that been——

Mr. MITRISIN. We have looked at that site, and there have been some problems in terms of acquisition on that site. We are now looking at a site adjacent to the current station at Gateway——

Senator DECONCINI. Oh, you are.

Mr. MITRISIN [continuing]. To see if we can do expansion on that.

Senator DECONCINI. It will be adjacent to the current site?

Mr. MITRISIN. Yes, sir.

Senator DECONCINI. I went and looked at a couple of sites down there that you supposedly were going to build on, but they never materialized, is that correct?

Mr. MITRISIN. That never materialized. Region 7 in Fort Worth is currently doing a study in terms of what the requirements for Customs and Immigration are at the site. They are supposed to have a regional meeting, also, in April, in which they are going to go over that plan and try to get a consensus.

Senator DECONCINI. They don't have any time set on when that's going to be——

Mr. MITRISIN. No; we are still planning to go forward with the design work this year, and then we would start construction in the outyears. We will be asking for full funding for that project in the reprogramming.

Senator DECONCINI. You are asking for full funding?

Mr. MITRISIN. Yes, sir.

Senator DECONCINI. For 1990? How much is that?

Mr. MITRISIN. It's in the 1989 reprogramming.

Senator DECONCINI. Oh, very good.

Mr. MITRISIN. We would not need any additional funding after that to complete the project.

Senator DECONCINI. The asbestos removal, is that finished?

Mr. MITRISIN. The asbestos, as I remember, was not an issue at Brownsville, but I would have to——

Senator DECONCINI. Then you weren't doing it? Aren't you doing asbestos removal at the border stations? When I was there, they were putting in all new ceilings. Is that finished, or do you know?

Mr. MITRISIN. In 1983, there was an asbestos removal project; that has been completed.

SAN LUIS, AZ, BORDER STATION

Senator DECONCINI. We have received a draft copy of your reprogramming, Mr. Austin, for $11.9 million. It is my understanding that you intend to move $213,000 into the San Luis project. I have received continuous complaints from the community of San Luis that the project is not moving quickly enough. Can you tell me if the proposed reprogramming, if it's approved, whether or not this will complete the work on the San Luis project and if not, when will it be?

Mr. MITRISIN. At San Luis, the reprogramming that we asked for would finish the funding necessary to do work on that project. We have started design on the project, and we expect design completion in October of this year, and we expect construction to be completed in February 1991.

SAN FRANCISCO FEDERAL BUILDING

Senator DECONCINI. That's encouraging, thank you.

Mr. Austin, can you bring me up to date on the status of the San Francisco Federal Building, and the problems we've had up there on both sides of the bay?

Mr. AUSTIN. The status on the San Francisco project is that the city has not, in compliance with the authorization to build a new building there, provided the land.

Senator DECONCINI. They have not selected a site.

Mr. AUSTIN. No, sir, and there have been any number of options and/or proposals brought forth ranging from trading buildings for land, our acquiring a building and then the developer giving us the land. None of it has come to pass, and we have held fast to the position that the city must commit to provide the property.

Senator DECONCINI. I'm glad you have because they certainly made a great representation that that was going to come about.

Mr. AUSTIN. Part of the problem, I think, is financial problems with the city and being able to come up with a piece of property.

Senator DECONCINI. So you are prepared to move forward on GSA's commitment, if the city meets theirs.

Mr. AUSTIN. Yes, sir; Oakland, however, is moving ahead.

Senator DECONCINI. Yes; how is that one coming along?

Mr. AUSTIN. The Solicitation For Offers has gone out. It has been responded to. The contract has not yet been awarded. They are in the process of evaluating offers, and the project is on schedule, as I understand it.

Senator DECONCINI. Can you give me an update on what progress the GSA is making on developing child care facilities?

Mr. AUSTIN. Yes, sir; to date, GSA has opened 48 child care facilities.

Senator DECONCINI. Over what period of time?

Mr. AUSTIN. Thirty-one of those were within the last 18 months. We have 21 more scheduled for this year, and I might say, Mr. Chairman, so I don't wind up in conflict with testimony I've given previously, since my last testimony, we've opened 2 more, so that's why there are 21 now as opposed to 23 scheduled for this year.

Senator DECONCINI. For fiscal year 1989?

Mr. AUSTIN. Yes, sir; we are in the process of developing additional sites over the next 6 months which we will target for fiscal year 1990. There is some confusion. The OMB in September promulgated a directive which identified Labor and OPM as the two lead agencies for the public and private sector.

In compliance with that, we have been waiting for direction to come down to define GSA's role in terms of leadership and acting as the catalyst, if you will. We haven't stood still, however. We have developed our child care policy guidelines. We have put those out for comment both to Labor, OPM, and to OMB.

We have continued on and modified our build-out requirements for child care centers. Perhaps we were a little naive when we first got into this. We were developing standard build-out requirements consistent with office space, and unfortunately we weren't sensitive to the issues of a kitchen, and a laundry room, and other specific facilities that were necessary. We have revised and upgraded our standards to accommodate these items in a standard build-out.

There was a policy decision which indicated that the Federal Government would not build new structures for child care and would not provide modular structures for child care.

Senator DECONCINI. Whose decision was that?

Mr. AUSTIN. That was done under the previous Acting Administrator. I have amended that in our current guidelines, so that in rare instances where either alternative space cannot be found on site or immediately adjacent for leasing, that we will allow for modular construction and may be doing so in two specific locations: one in New York and one in Georgia. We are very excited about it. Our tuition costs range from $60 to $175 a week. We have taken a very liberal interpretation of the enabling legislation and are acting under that legislation because GSA can absorb some of the cost for build-out and can absorb some of the cost that would normally be allocated as rent. This helps to keep the price for child care down.

But child care costs are a hardship in many instances. The utilization was about 62 percent GS–11 and below, and those costs are hard to cover by those individuals.

Senator DECONCINI. Thank you very much for that report, and let me compliment you on your change of policy and the effort that GSA is making. I suspect you are as well aware of this as we are. In the public sector, there is a demand for this and a need. It's real, and I compliment you. As a matter of fact, I'm going to take some of these statistics that you've given us here, and we may ask you to clarify a few of them, and put something in the record complimenting the GSA on their progress in the child care area.

Can you tell me what the average startup cost for an on-site day-care center is?

Mr. AUSTIN. It runs between $30 and $50 a square foot, Mr. Chairman. I might say, Mr. Chairman, we have approached it as child care which, under that concept, as opposed to day care, provides for a structured curriculum of learning within the child care facility. It is our hope that by the end of this fiscal year, we will have space for 1,800 enrollees and plan to expand that number into the outyears.

U.S. COURTS FACILITY REQUIREMENTS

Senator DECONCINI. That's very good. Let's move on to the Administrative Office of the U.S. Courts. They found that GSA is unable to meet their facility requirements and have proposed that a separate judicial building fund be established, and that the Judiciary receive the authority to lease and construct their own facilities. Are you familiar with this proposal? What are your views on it? What impact would it have on your and other agencies?

Mr. AUSTIN. Yes, sir; I am familiar with it. Our position would be that GSA is probably more capable of developing, not only the requirements and the needs that they define, but to provide the space in a timely fashion without creating redundancy.

In the past, we had some problems within the Administrative Office of the Courts in meeting their needs in a timely fashion. I would like to think that it was all their fault. It's not; some of it is our fault. It centers, in some instances, around what should actually go into the facility, to what degree should the facility be built-out, what kind of specifications are actually necessary to accommodate the needs of the court. Sometimes it becomes confrontational, and it's not an amiable way to do business, unfortunately.

We have had a good working relationship on the higher levels with the AOC in terms of our central office and their central office. We tend to have problems when we get into the regions and dealing with the local courts. We have been able to work out an MOU with the Administrative Office of the Courts as to what should be the standard build-out, and we're trying to live up to that agreement.

There is more work that needs to be done, and I will be the first to admit it. Mr. Mecham and I need to sit down and see if we can resolve some of the concerns and the differences that tend to be parochial on both sides; both in terms of GSA and in terms of the judiciary.

Senator DECONCINI. Have you had a court order you to do something?

Mr. AUSTIN. Yes, sir.

Senator DECONCINI. Recently? Mr. Fontaine, can you respond to that?

Mr. FONTAINE. I would rather not even discuss the subject, because I could not be objective about it. I mean, when judges want to play architects, engineers, and interior designer, et cetera, it makes for——

Senator DECONCINI. They really do. I know some, and I have great respect for them, but they really do want to do it their way.

Mr. FONTAINE. They are tough to please.

Senator DECONCINI. It concerns me from the standpoint that they are a separate part of our Government, a distinct part of the system of checks and balances. Yet, they are relying on the executive branch and relying on us, and I try to look at it from their perspective, but I know that judges can be arrogant just as legislators can and administrators can, and there are some who are.

COURTS AS SOLE TENANTS

I understand that in 50 percent of the U.S. Court buildings, they are the only tenants. Would you consider delegating leasing and/or construction authority to the courts in a situation where the courts are the sole tenants of a facility? Have you thought about that? I'm not telling you to do it or indicating that I'm going to do anything to force you to do that, but I'm just looking for a solution. If you could get away from the hostilities that probably are hanging around, as there are with the courts. The GSA is not popular with the courts, that was the impression I got when I talked to them, and I can feel the same reaction here. I just wondered if you've given some thought about how to let them do it, if they are really the sole tenant or sole occupant of the building.

Mr. AUSTIN. Mr. Chairman, I have not personally given that any consideration, and my initial response would be that, if it didn't entail setting up a separate management system, which would, in essence, be redundant to what we already have in place in many of the areas, I might see that as being a possible solution, as long as we didn't find ourselves in the position of them having the authority to expend funds on behalf of GSA, which GSA did not have the authority to oversee.

Senator DECONCINI. Yes, that's a problem. I wonder—I haven't asked the courts—but I wonder, when you talk to Mr. Mecham about it, if you might present such a proposal where you would estimate what you would spend and say "here it is, you do whatever you want with it, and you make the decisions, but that's all there is." So they've got to decide whether or not they want paneling in their courtroom, and they want bridges over the street to connect the buildings, when you think it's not necessary because of traffic and because of many, many professional reasons. I just suggest that there might be another way to relieve the hostilities, because it's not good.

When I asked you if you had ever been ordered by the courts, I understand that you actually have been cited with contempt if you had not performed as they have directed; is that correct?

Mr. FONTAINE. Yes; concerning temperature of the heating and air conditioners.

Senator DECONCINI. For the record, I would like to have a few of those examples, if I can, if it's not too difficult for you to put them together. I want to just understand more of what GSA has had to be confronted with, because when you have got a contempt order, I don't know that you would have much choice, particularly when the marshals don't work for you. [Laughter.]

Mr. AUSTIN. The last time, Mr. Chairman, that happened, I availed myself of the opportunity to leave town.

Senator DECONCINI. You did. No forwarding address. [Laughter.]

Mr. AUSTIN. And that was in Columbus, OH.

Mr. FONTAINE. Mr. Chairman, I would think—and I don't have all of the numbers at hand—that the number of cases where they are the sole tenant would not be that many. Most are shared Post Offices or Federal buildings.They are multiple occupancy buildings, which would create all kinds of headaches.

Senator DECONCINI. Yes; I don't know if there are any.

Mr. FONTAINE. There are some in the major cities.

Mr. AUSTIN. Mr. Chairman, please, I don't want to leave either the committee or anyone with the idea that, at least in the senior levels of the AOC or GSA, that we have that kind of animosity or adversarial relationship.

Senator DECONCINI. I understand. I'm just interested in a few examples of where the court has ordered you to do something and from your perspective and side of the story, I would like to see what it is. If you would submit, say two or three examples of those.

Mr. AUSTIN. Yes, sir.

EPA HEADQUARTERS

Senator DECONCINI. Your fiscal year 1990 proposed budget for the Federal Buildings Fund is for $3.4 billion in new obligational authority: an increase of $336 million over the fiscal year 1989 level of funding. Of that amount, $244.5 million is proposed for new construction projects; the most notable new project is $210 million for the Environmental Protection Agency headquarters building right here in Washington.

I recently received a prospectus on this building, but understand that there may be some concerns on the part of the EPA over the site chosen by the GSA. Can you give me a report on the site, and tell me about those concerns of EPA versus the GSA?

Mr. AUSTIN. Yes, sir; a site has not yet been chosen and, in fact, Administrator Riley and I are to meet in the very near future to try to resolve the concerns that the EPA has.

GSA would prefer that the EPA relocate to the Southeast Federal Center. We would provide the land, provide the construction of the facility, and interconnect the facility to the metro system coming through just adjacent to our property. EPA would prefer to compete the site in the District for construction of approximately 1.4 million square feet. We have a difference here, on size, Mr.

Chairman. We estimate their need to be 1.1 million square feet. They estimate it to be 1.4 million square feet. Their estimation is based upon a significant increase in the number of employees at EPA.

Senator DECONCINI. Can you give me those figures again?

Mr. AUSTIN. Ours is 1.1 million square feet, and theirs is approximately 1.4 million square feet. Their estimate is based upon significant numbers of employees being added to their central office staff of EPA.

In our discussions with OMB, OMB has taken the position that they have no reason to believe that those employees will actually materialize, and that we ought to build to the number that GSA has suggested. Our proposal still provides approximately 100,000 square feet of new space for potential expansion over the construction term which would be for 1994–95 delivery.

We still have some things we need to try to resolve between the two of us. They are asking for raised flooring throughout the facility. We're saying that that's actually an unnecessary cost other than, perhaps, in the computer space areas. They are asking for a new experimental HVAC system which is above standard level in terms of what GSA would be providing in a normal building situation. They are asking for 1,500 parking spaces for employees, which is, again, above what GSA would normally provide.

Their figure comes to about $342 million plus for their project. Our figure says we can do it for about $210 million with an additional $15 million being provided for infrastructure repairs within the Southeast Federal Center, such as avenue approach, street repair, shore-up the river bank, and landscaping.

In an effort to put GSA's money where its mouth is, I will be coming back to the Senate and to the House with a proposal to also move the GSA headquarters to the Southeast Federal Center. GSA will be a pioneer in our own right and accommodate a number of offsetting costs for the infrastructure and share it between GSA and EPA and, at the same time, address the parking issues and some other costs which could be, perhaps, reduced if shared by GSA and EPA.

That's something that I want to talk with Administrator Riley about. That's what I want to talk to OMB about and, quite frankly, Mr. Chairman, we're gathering our numbers even as we speak so that we can identify who would potentially back-fill GSA space, what the renovation cost would be. We currently have a $30 million project to renovate GSA's central office facility.

Senator DECONCINI. Is that underway now?

Mr. AUSTIN. We have begun the design process, yes, sir. We could also, in terms of GSA, do some agency consolidation. We could colocate FSS with the rest of the central office. There are a number of advantages to be had, but I want to put them in some kind of structured briefing for both the Senate and the House and let our position be known. The long and short of the situation is that Administrator Riley and I have to sit down and communicate with each other. Our staffs have already done so, and I have with his assistant, but he and I have not yet had a chance to do that.

Senator DECONCINI. In your $210 million project for EPA, is it possible to build it in such a way that you could expand it, if

indeed EPA does need additional space, if President Bush indeed becomes an environmental President, which many of us hope he will? I see there may be justification for some expansion there of some significance, perhaps.

Mr. AUSTIN. At the Southeast Federal Center, there would be significant capability to expand, probably, in the neighborhood of another 1 million square feet, if necessary.

Senator DECONCINI. Right adjacent to it?

Mr. AUSTIN. Right adjacent to it, sir.

Mr. FONTAINE. But, Mr. Chairman——

Senator DECONCINI. Yes.

Mr. FONTAINE. The $210 million is predicated on a Government-owned site. If it isn't, you've got millions of dollars more to add to that.

Senator DECONCINI. Yes; there is no land cost included in the estimate.

Mr. FONTAINE. That's right.

DRUG TESTING

Senator DECONCINI. I noticed that you've requested $300,000 under the salaries and expenses account in your budget for fiscal year 1990 for drug testing and awareness programs. What is your current drug testing policy, and when will the testing be implemented?

Mr. AUSTIN. Mr. Chairman, we have identified approximately 2,300 employees within the agency who would be in the universal sampling. Out of that number we hope to, over a 5-year period, have tested that 2,300. In January, a 60-day general notice on the testing was sent to all employees. Specific notices to employees occupying testing designated positions are scheduled to go out this month. Earliest implementation of the random drug-testing program will be mid-April.

Employees to be tested include those in positions in public health and safety; those who carry firearms, and those who are in positions identified as sensitive. We are reviewing the issue of the schedule C positions. We had initially identified all schedule C's to be tested. We are now going back and reviewing that to assure that those in sensitive positions or those possessing top secret clearances would, in fact, remain in the universe.

In terms of the breakdown, $14,000 would go toward collection, approximately $1,000 to quality control, $24,000 to testing, $22,000 for medical review by a public health service, $238,000 for the employee assistance program which handles both the training and the counseling, and $1,000 for additional in-house training material.

Senator DECONCINI. Now that's all based on the Presidential Executive order?

Mr. AUSTIN. Yes, sir.

Senator DECONCINI. This is your response to implementing the Executive order.

Mr. AUSTIN. Yes, sir.

Senator DECONCINI. Are the senior executive grades being proposed for testing?

Mr. AUSTIN. Yes, sir, they are.

Senator DECONCINI. How was this determination made?

Mr. AUSTIN. The order specifies—I'm paraphrasing at this point, Mr. Chairman—something to the effect that "those in high places of trust and/or responsibility," and within the GSA, it is our position that there is no higher trust nor responsible position than those of the Senior Executive Service and we have designated all of them to participate in the universe of our testing.

Senator DECONCINI. Very interesting. What about other senior grades like GS–15's?

Mr. AUSTIN. There are GS–15's, 14's, and other senior grades involved. However, Mr. Chairman, that is based upon their job classification and/or their position within the agency.

Senator DECONCINI. I think Secretary Hodel of the Interior Department attempted to do all senior public trust positions and senior executives and went to court, and I can't remember—was it struck down?

Mr. AUSTIN. Yes; it was.

Senator DECONCINI. How do you overcome that?

Mr. AUSTIN. Ours was done differently than the Department of the Interior, and certainly I am not in a position to criticize how they did theirs. Ours has been compiled over the better part of a year. We looked at the entire universe, made selections based upon the positions, the requirements and the interpretation of the Executive order and feel that we are prepared to defend how we identified ours, as opposed to randomly drawing any number of people and/or positions.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. I have other questions that I will submit to all of you, Senator Byrd has a number of questions, and Senator Domenici and Senator Hatfield have one question.

Thank you very much.

[The following questions were not asked at the hearing, but were submitted to the Agency for responses:]

Questions Submitted by Senator DeConcini

SAFE AREAS FOR THE HANDICAPPED

QUESTION: Since the passage of the 1973 Discrimination Act, which established minimum accessibility requirements for the disabled, the number of mobility impaired persons entering the work force has increased substantially. Concern expressed by many handicap advocates, and an opinion shared by this Committee, is that concurrent with the responsibility to provide adequate access is a responsibility to insure safe egress. The legislative progress we have made in accessibility requirements is well documented. Unfortunately, with regard to egress, the same exiting systems designed for use by ambulatory persons, i.e., protected stairway enclosures, must also be used by persons who are non-ambulatory. In many instances this is neither a safe nor practical method of evacuation in a fire emergency.

The FY 1988 appropriations commissioned a pilot project for the purpose of creating fire safe areas for the disabled in Federal buildings. It is intended that this pilot program form the basis for developing an efficient and cost effective solution to meeting the egress requirements of the physically impaired.

The Committee is aware of the conscientious efforts made by the General Services Administration to solicit input from the handicap community to establish a workable selection criteria for the buildings to be included in the pilot program. As the bill required that "not fewer than six buildings" be selected, the Committee would like to receive an individual project status report on each of these buildings. The report should include:

1. Building locations and name.
2. Approximate size of buildings, i.e., number of floors, square footage, etc. (as available)
3. Approximate number of disabled employees.
4. An acknowledgement that the design of the safe area of refuge has been completed and a brief explanation.
5. Provide where possible, an overview of anticipated project costs for each individual site. Describe how these figures compare with original budget estimates.
6. Outline the anticipated project completion timetable for each item under construction. Please note any projects currently under construction.

ANSWER: The buildings follow.

1. Federal Building
   522 Minnesota Ave
   Bemidji, MN

2. Gross square feet - 50,218
   4 stories with basement and sub-basement

3. 12 disabled/handicapped occupants

4. Design work is progressing slightly slower than originally planned. It was necessary to perform more predesign work to ensure effective execution of the project. However, design work should be completed by March 27, 1989. The design documents will be forwarded to the Senate Appropriations Committee as soon as they become available. We do not expect this delay to affect the start of construction of the staging areas by the end of the fiscal year.

5. The project is estimated to cost $162,000. The original budget estimates for this project was $200,000.

6. Award for construction of the pilot project will occur by the end of fiscal year 1989. Project completion is expected to occur by the end of fiscal year 1990.

1. National Building Museum
5th & F Street, NW
Washington, DC

2. Gross square feet - 208,041
4 stories with basement and atrium

3. No disabled/handicapped occupants, high public visitation.

4. Design work is progressing slightly slower than originally planned. This is primarily due to the uniqueness and architectural significance of the buildings chosen in Washington, DC. It was necessary to perform more predesign work to ensure effective execution of the project. The design documents will be forwarded to the Senate Appropriations Committee as soon as they become available. We do not expect this delay to affect the start of construction of the staging areas by the end of the fiscal year.

5. Since design work is not completed, the anticipated project costs for the staging area can not be accurately made at this time. However, it appears that the projected project costs will be slightly higher than the original budget estimates of $150,000.

6. Award for construction of the pilot project will occur by the end of fiscal year 1989. Project completion is expected to occur by the end of fiscal year 1990.

1. Federal Building
234 Summit Street
Toledo, Ohio

2. Gross square feet - 210,000
7 stories with basement and sub-basement

3. 5 disabled/handicapped occupants

4. Design work is progressing slightly slower than originally planned. It was necessary to perform more predesign work to

ensure effective execution of the project. However, design work should be completed by March 27, 1989. The design documents will be forwarded to the Senate Appropriations Committee as soon as they become available. We do not expect this delay to affect the start of construction of the staging areas by the end of the fiscal year.

5. The project is estimated to cost $350,000. The original budget estimates for this project was $337,000.

6. Award for construction of the pilot project will occur by the end of fiscal year 1989. Project completion is expected to occur by the end of fiscal year 1990.

1. Veterans Administration Building
810 Vermont Ave, NW
Washington, DC

2. Gross square feet - 678,145
11 stories with 3 below grade levels

3. Approximately 40 disabled/handicapped occupants

4. Design work is progressing slightly slower than originally planned. This is primarily due to the uniqueness and architectural significance of the buildings chosen in Washington, DC. It was necessary to perform more predesign work to ensure effective execution of the project. The design documents will be forwarded to the Senate Appropriations Committee as soon as they become available. We do not expect this delay to affect the start of construction of the staging areas by the end of the fiscal year.

5. Since design work is not completed, the anticipated project costs for the staging area can not be accurately made at this time. However, it appears that the projected project costs will be slightly higher than the original budget estimates of $650,000

6. Award for construction of the pilot project will occur by the end of fiscal year 1989. Project completion is expected to occur by the end of fiscal year 1990.

1. Bishop Henry Wipple Federal Building
Fort Snelling, MN

2. Gross square feet - 596,324
7 stories with basement

3. Approximately 50 disabled/handicapped occupants

4. Design work is progressing slightly slower than originally planned. It was necessary to perform more predesign work to ensure effective execution of the project. However, design work should be completed by March 27, 1989. The design documents will be forwarded to the Senate Appropriations

Committee as soon as they become available. We do not expect this delay to affect the start of construction of the staging areas by the end of the fiscal year.

5. The project is estimated to cost $277,000. The original budget estimates for this project was $300,000.

6. Award for construction of the pilot project will occur by the end of fiscal year 1989. Project completion is expected to occur by the end of fiscal year 1990.

1. Wilbur J. Cohen Building
4th & C Street, SW
Washington, DC

2. Gross square feet - 1,074,197
6 stories

3. 15 disabled/handicapped occupants

4. Design work is progressing slightly slower than originally planned. This is primarily due to the uniqueness and architectural significance of the buildings chosen in Washington, DC. It was necessary to perform more predesign work to ensure effective execution of the project. The design documents will be forwarded to the Senate Appropriations Committee as soon as they become available. We do not expect this delay to affect the start of construction of the staging areas by the end of the fiscal year.

5. Since design work is not completed, the anticipated project costs for the staging area can not be accurately made at this time. However, it appears that the projected project costs will be slightly higher than the original budget estimates of $300,000.

6. Award for construction of the pilot project will occur by the end of fiscal year 1989. Project completion is expected to occur by the end of fiscal year 1990.

BACKGROUND: The Committee has noted that nationally accepted codes and standards developed in the private sector (NFPA 101 Life Safety Code) have used compartmentalization or refuge areas to protect occupants in health care institutions for a number of years. Fire protection professionals indicate that the subdivision of spaces into compartments is an integral part of the fire protection philosophy of these buildings.

The Committee is concerned that a large number of existing Government buildings are not equipped with many of the basic fire protection features required by the so called "model building codes", and thus, that an adequate level of fire protection may not be provided. This concern is amplified when the needs of the mobility impaired are considered. The Committee believes that the concept of fire safe refuge areas is a viable method for addressing

emergency evacuation needs, particularly of the handicapped. The Committee is prepared to recommend the continued funding of this program and would like to hear comments regarding:

1. Is the safe refuge area program consistent with the long term fire protection objectives of GSA?
2. Is GSA satisfied that sufficient data exists to support the validity of fire safe refuge areas as a legitimate vehicle to address emergency egress for the disabled?
3. Do the performance requirements of the safe refuge area as outlined in the pilot program meet the basic design objectives of GSA?
4. Should funding for the safe area of refuge program remain the same or be increased nominally for FY 90?

QUESTION: Is the safe refuge area program consistent with the long term fire protection objectives of GSA?

ANSWER: GSA's long term fire protection objectives do take into account special considerations such as compartmentation and staging areas for a timely and effective evacuation of disabled/handicapped individuals from buildings. Also, we would like to point out that compartmentation is only one of the many tools the fire protection engineer uses to limit the growth and spread of fire. In health care institutions, where the population is mainly nonambulatory, compartmentation is used mainly to control smoke movement. However, Government office buildings are a totally different type of occupancy than health care institutions. Office buildings have many other design parameters which must be taken into consideration by the fire protection engineer in design and use.

In response to your concern that a large number of existing GSA buildings are not equipped with many of the basic fire protection features required by the so called "model building codes", and thus, that an adequate level of fire protection may not be provided, GSA has an extensive and very comprehensive safety program, with fire protection being one of the main elements. GSA has identified priority firesafety projects in 73 buildings for action. To date 12 projects have been completed, 26 projects are under design, and 30 projects are under construction. Five buildings have been declared excess to GSA's needs. In addition, GSA has completed a research project to revise GSA sprinkler use and design criteria and has initiated research regarding quick response sprinklers. GSA also requires that a comprehensive fire protection, facility safety and health, and environmental management survey be conducted in all GSA-controlled, and leased space, as well as new space being considered. The purpose of the survey is to analyze buildings, to determine potential risk of loss of life, property, or Federal tenant mission from the effects of fire, accidents, and/or environmental incidents. GSA is committed to ensuring a safe and healthful workplace for all Federal employees, contractors, and visitors, including the disabled.

Prior to, and independent of the pilot project, GSA has been and continues to conduct research with the National Institute of Standards and Technology (NIST, formerly the National Bureau of Standards). The research will measure and predict corridor fire

environments induced by a fire in a room adjoining a corridor, and the effects of fire gas flow on other areas adjacent to the corridor. Results from this research may impact the specific design requirements for establishing staging areas in the near future.

QUESTION: Is GSA satisfied that sufficient data exists to support the validity of fire safe refuge areas as a legitimate vehicle to address emergency egress for the disabled?

ANSWER: While some data is available, additional data is needed through research efforts. See answer to previous question for GSA's ongoing research efforts. As an example, our research has indicated that ventilation and pressurization of compartments is critical in maintaining their tenability. More research is needed in this area before design criteria can be established.

QUESTION: Do the performance requirements of the safe refuge area as outlined in the pilot program meet the basic design objectives of GSA?

ANSWER: While the requirements outlined in the pilot program do meet some of the basic design objectives, they do not meet all the objectives as determined by GSA fire protection engineers. GSA's main objective is to provide additional time for occupants in a building who may need assistance in evacuating the building. This may be achieved by establishing staging areas or by other means, depending on the individual building. Design requirements should be allowed to vary depending on the building. Requiring a specific design requirement (e.g., horizontal sliding fire doors or specific fire resistance) for all staging areas is not good engineering practice, efficient, nor cost effective. This has been the major reason for delays in design. In addition, the effectiveness of the staging areas should be evaluated following construction.

QUESTION: Should funding for the safe area of refuge program remain the same or be increased nominally for FY 90?

ANSWER: Before additional funds are provided and new projects commenced, an evaluation of the effectiveness of the staging areas should be done following the completion of the pilot project.

QUESTION: The Committee believes that the selection of future buildings should be influenced by demographic and geographic considerations of the handicap community. As the issues of access and egress affect a broad base constituency of Americans throughout this country, it is felt that the process of site selection should be carefully evaluated. Furthermore, it is not the intent of this Committee to select buildings which, from a standpoint of architectural constraints, fire protection considerations, or the needs of the disabled, represent facilities which do not practically lend themselves to the design and retrofit of safe refuge areas. This Committee has a greater interest in addressing the overall life safety concerns of all our citizenry and believe this can most effectively be accomplished by providing sufficient latitude to GSA to work in concert with representatives from the handicap community

to conduct site selection analysis and refine the basic operating requirements of the egress system.

The Committee would like to receive comments evaluating the selection process and appropriate recommendations to approve the same. Please address such specific issues as:

1. Geographic locations
2. Demographic considerations
3. New vs. old buildings
4. Sprinkler vs. non-sprinklered buildings
5. Practicality of design
6. Low vs. high rise buildings
7. General building fire safety considerations

ANSWER: GSA believes that the selection of future buildings should not be strongly influenced by demographic and geographic considerations; but as future projects are deemed necessary by professional analysis within GSA, they should be influenced by buildings that have a potential difficulty in evacuating/relocating disabled occupants and have conditions which lend themselves to successful, cost effective, and flexible design. Other factors to be used in the selection criteria would include: some of the building population should be disabled, an element of the occupant agencies' mission should involve serving the disabled community or general public, new construction vs. existing construction, schedule for other alteration projects, historic buildings, sprinkler vs. non-sprinklered buildings, low vs. high rise buildings, additional fire protection features of the building.

As a final note on the program in general, recently GSA has received informal adverse comments from disabled individuals regarding the project's name (Safe Refuge Areas for The Disabled). Even though the project objective is to provide additional time for occupants in a building who may need assistance in evacuating from the building and not an area to sit and wait out a fire, the project's name does not emphasize this. Therefore, we now prefer to refer to the project as staging areas for the disabled. We believe that this more accurately reflects the intended use of the areas.

BUILDING PURCHASE PROGRAM

BACKGROUND: Under the Building Purchase Program, GSA has purchased 10 office buildings containing 3.5 million square feet of space at a cost of about $305 million. GSA initiated the program as a means for reducing its accelerating outlays for leased space. In addition, GSA believes that purchasing buildings is cheaper than constructing them because

- purchased buildings are available for occupancy from 4 to 6 years sooner than constructed buildings resulting in lease payments savings, and

- GSA pays less for purchased buildings because federally constructed office buildings are more costly than privately constructed ones.

Despite the cost savings resulting from the program, GSA did not request any allocations of funds for the program from the Federal Buildings Fund in fiscal years 1989 and 1990. According to GSA, the program now has an unobligated balance of $10 - 14 million, which is not enough to make any significant purchases.

QUESTION: Does GSA continue to believe that significant cost savings can be achieved through the Building Purchase Program?

ANSWER: GSA believes that significant cost savings can still be achieved through the Building Purchase Program. Recent program activity has supported this belief. Building purchases are made in those cities where there is an opportunity and need for government ownership and where the cost of purchase over leasing and construction is clearly advantageous. Even with the relatively small balance of $42 million currently available, GSA has been very active nationwide, and has received a number of proposals that would fully meet the program's criteria. GSA continues to stress the importance of the Building Purchase Program as an integral component of its overall capital investment strategy.

QUESTION: If so, why hasn't GSA requested that additional funds be allocated to it from the Federal Buildings Fund?

ANSWER: Within the resources that are available for GSA's fiscal year 1990 capital budget, the Repairs and Alterations and New Construction programs were given a higher priority. GSA believes that maintaining the existing Government-owned inventory must first be adequately funded before funding the acquisition of new space. The top priorities for acquisition of new Government-owned space in 1990, which are replacement of the current EPA headquarters and Court expansion, can best be addressed through direct Federal construction.

OHIO EXCISE TAX ON UTILITIES

QUESTION: We understand that GSA has been working on the Ohio excise tax on utilities for over a year and has considered asking the Comptroller General for his opinion on this involved and sensitive matter. Where does the inquiry stand? Do similar situations exist in other states?

ANSWER: This problem was brought to the attention of GSA through the audit of Region 5 in its letter dated December 22, 1987, to Mr. Terence C. Golden, Administrator of GSA. The Public Utilities Service Division (PPU) of GSA's Public Building Service undertook to resolve this problem by the following actions:

1. PPU contacted the Ohio utility companies, requesting information from them concerning the exemption of Government agencies from the Ohio Excise Tax. This tax does not appear as a separate billing item on the utility bill, but rather is imbedded in the utility's rates.

2. PPU suggested that Region 5 review its utility bills to identify the Ohio excise tax, and work with the utility companies to remove this charge from the rates being paid and receive a tax credit on its utility bills. This information was transmitted in a letter from PPU's legal counsel to Region 5 legal counsel.

3. PPU informed, by letter, all Federal facilities procuring utility services from Ohio utility firms that they should review their bills to ensure that they are receiving the proper tax credits.

4. PPU sent a memorandum dated February 21, 1989, to Region 5 legal counsel suggesting that the region discontinue all payments of the Ohio excise tax and seek to recover from the appropriate utilities past payments of that tax.

As a result of these efforts, The Cleveland Electric Illuminating Company of Cleveland, Ohio, revised its General Rules and Regulations to include a statement that says "Monthly bills for electric service to Federal Government Customers shall be reduced by 4.75%. Dayton Power and Light has agreed to credit the Federal agencies with the amount it added into its rates as the Ohio excise tax.

This tax problem does not appear to exist in other states.

Buildings Delegation Program

QUESTION: How well have the agencies been able to comply with PBS' reporting requirements? To what extent have they been able to provide reliable financial management information?

ANSWER: Beginning in fiscal year 1988 delegatee agencies were funded for delegated functions through a system of allocation accounts. These allocation accounts were established as a mechanism for GSA to monitor the cost of delegated functions. Initially agencies experienced difficulties in complying with the reporting requirements of the allocation account system due to differences between GSA's and delegated agencies' accounting systems and the short time frame for reporting. Revising the reporting requirements from monthly to quarterly and agencies becoming more familiar with the system have improved their ability to respond within established time frames.

GSA cannot determine the reliability of this financial data based on these reports alone; however, our evaluation and oversight program has been designed to assess the validity and reliability of financial data reported by the agencies.

QUESTION: How effectively do the reporting requirements contribute to PBS' ability to identify and monitor agencies' total costs for operating facilities?

The current reporting requirements for delegated facilities require agencies to report how they are expending Federal Buildings Fund

monies. They do not include any monies agencies may be expending from their own appropriated funds and therefore do not depict agencies' total costs.

QUESTION: To what extent has PBS established and applied performance measures to assess the effectiveness of delegated operations?

ANSWER: In 1984, when the delegations program was expanded into a nationwide program, PBS developed a standard delegation of authority document which outlined the terms and conditions of the delegation between GSA and a respective agency. This standard delegation of authority agreement included the criteria by which agencies would be evaluated under the delegation. Each of GSA's regional offices utilize this criteria in assessing agencies compliance with the delegation.

QUESTION: To what extent has PBS assessed the benefits that it and the agencies receive as a result of the Building Delegation Program?

ANSWER: A formal assessment of the benefits derived from the delegations program has not been made at this time.

QUESTION: What is the nature of the PBS evaluation program? Specifically, which delegated operations does PBS evaluate and how frequently does it evaluate individual facilities?

ANSWER: PBS' evaluation program is comprised of evaluation criteria for each major program area i.e.; cleaning, operation and maintenance, repair and alterations, and resource management, to mention a few. Evaluations of delegated facilities are conducted as near as feasible to the first anniversary date of the delegation. After the initial evaluation of a delegated building has been conducted, subsequent evaluations are conducted on a biennial basis. Should an evaluation reveal a significant problem area GSA will conduct a reinspection of the building after the agency has been allowed sufficient time to take corrective action.

QUESTION: How many evaluations has PBS scheduled and completed and what trends, if any, has PBS identified based on the evaluations that have been completed?

ANSWER: To date PBS has conducted evaluations of 62 delegated facilities. An additional 61 buildings are scheduled for review in the current fiscal year. Reviews of delegated facilities have revealed that the majority of agencies are operating the buildings in a satisfactory manner with one exception, the Social Security Administration complex in Woodlawn, MD. Our regional office staff has conducted a follow-up review and has been working with SSA in an effort to assist them in achieving a satisfactory level of operating performance.

TERMINATION OF THE STRIDE INFORMATION SYSTEM
OF THE PUBLIC BUILDINGS SERVICE

QUESTION: What action is PBS taking to modernize its existing facilities management system?

ANSWER: The future direction of the existing PBS Information System (PBS/IS) is the subject of a study by an independent contractor. This contract is administered by the GSA Office of Information Resources Management (IRMS) for the GSA Administrator. The study will recommend an approach for PBS to follow in the development of a replacement system for the current Computer Sciences Corporation's INFONET System. Concurrently, all PBS program offices are reviewing their systems requirements to certify which ones need to be included in any PBS system development. The certified requirements and the independent contractor report will lead to the development by PBS of a of statement of work followed by a Request for Proposals (RFP) for development of the proposed PBS information system. The RFP(s) will address both hardware and software for the replacement system.

QUESTION: Has PBS identified the reasons why the STRIDE development effort failed? What action is PBS taking to ensure these problems will not happen again?

ANSWER: The STRIDE project was cancelled during May of 1988 by the Administrator of GSA. However, the software developed during the project was not completely voided with the cancellation of the project. Systems were developed which meet the basic needs of the program offices and these systems are being operated and maintained currently. GSA has evaluated the STRIDE effort in depth and has identified the following shortcomings: 1) lack of a comprehensive system design; 2) insufficient quality control; 3) inaccurate progress reporting; and 4) ineffective oversight and monitoring of the project.

GSA has taken a number of actions to install a discipline of checks and balances and to ensure implementation of sound information resources management.

1) An Executive Review Board has been established. This Board is chaired by the Deputy Commissioner, PBS and consists of PBS and IRMS Assistant Commissioners and the PBS Project manager.

2) A PBS/IS regional program council has also been established to coordinate and certify PBS information system requirements.

3) PBS and IRMS have agreed to increased IRMS oversight including on-site participation in key project activities, hierarchical reporting requirements, and management reviews.

4) PBS has an independent contractor performing software product quality control.

5) On January 4, 1989, a contract was awarded to Abacus Technology Corporation to conduct a strategic study for the purpose of recommending a future direction for PBS automation activities.

Health and Safety Repairs

Question: While you are proposing an increase of $336 million in the Federal Buildings Fund, you are actually proposing a reduction of $95 million from the enacted level for Repairs and Alterations. I am particularly concerned about what impact this reduction will have on health and safety as well as facility improvements on the U.S. - Mexico border. Your justification shows that you intend to fund 10 health and safety projects in Fiscal Year 1990. What kind of a backlog do you have on health and safety projects and are there any projects which are not scheduled for funding in FY 90, which are urgently needed?

Answer: GSA's 1990 R&A requests completely addresses our inventory of health and safety projects required in 1990. Those projects in our inventory beyond 1990 do not pose a threat to the health and safety of Federal employees or the visiting public and will be scheduled for inclusion in future years budgets.

Many of these projects for asbestos abatement and firesafety improvements are included in building renovation projects. It is prudent at that time to upgrade the overall condition of facilities since no health and safety hazards exist. The priority programs have been addressed on an expedited basis as described earlier.

GSA's 5-year inventory of unfunded repairs and alteration health and safety projects is approximately $348 million. Of this amount, approximately $160 million in projects for asbestos abatement remain to be funded and $188 million in firesafety projects.

All PCB projects are funded. A total of 128 buildings with Government-owned PCB transformers totalling $86 million were identified for accomplishment over fiscal year 1986 through 1989. Funds provided in fiscal year 1989 will provide for completion of the PCB work. To date 57 projects have been completed at a cost of $13.5 million and another 52 projects costing $53.3 million are under construction. The remaining 21 projects are planned for award in fiscal year 1989.

For fiscal years 1985 to 1988, GSA completed 202 asbestos projects totalling $34.6 million, another 87 projects totalling $29.1 million are scheduled for completion in fiscal year 1989.

GSA identified priority firesafety projects in 73 buildings for action. To date 12 projects have been completed at a cost of $15.9 million, 26 projects totalling $63.9 million are under design, 30 are under construction totalling $74.9 million and 5 of the locations initially identified have been declared excess to GSA needs.

Opportunity Purchases

QUESTION: In Fiscal Year 1989 the Committee provided $500,000 for opportunity purchases of commercial buildings. In Fiscal Year 1990, I notice that no funds have been requested for this program. Could you tell the Committee whether or not you believe this program is cost-effective and if there are long-term cost-savings associated with these purchases?

ANSWER: The Building Purchase Program has been very successful in achieving its intended purpose: the acquisition of quality space at economic prices. The decision to purchase a facility is based on Government requirements in the area, and estimates of cost savings that will accrue to the Government when compared to other housing alternatives (lease or construction of similar space). In most cases, the long-term present value cost of direct acquisition has been significantly lower than the leasing alternative, and comparable to or lower than the direct construction alternative.

QUESTION: Did you request funds from OMB? If so, what was the level of your request?

ANSWER: Our original Fiscal Year 1990 submission to OMB requested $100 million for the Building Purchase program.

Federal Protective Service

QUESTION: This Subcommittee has serious concerns over the recruitment and retention of Federal Police Forces. The Office of Personnel Management granted GSA a special pay rate for GSA Police however, this authority was limited to those officers in the Washington, DC area. We understand that this has worsened the morale problem of GSA police in other major cities. What have your done to extend this pay relief to officers in other locations?

ANSWER: We have asked our Regions to conduct special pay rate studies in our major cities (core and satellite). As a result of those studies 6 core cities currently have special pay rates: Washington, DC; San Francisco, CA; Philadelphia, PA; Chicago, IL; New York, NY; and Boston, MA. Studies of 2 additional cities (Los Angeles, CA and Detroit, MI) have been completed and forwarded to the Office of Personnel Management (OPM) for approval. The remaining 4 cities either do not meet the criteria or the Regional Administrator has determined that special pay rates are not required.

QUESTION: The Committee included language in its FY 89 report directing the GSA to reach a target of 1000 Federal Protective Officers by the end of Fiscal Year 1991. I am pleased to see that your FY 90 budget includes an increase of $1.5 million and 50 positions to help meet this target. Can you tell the Committee what your on-board staffing level for Federal Protective Officers will be by the close of FY 89? Will you be able to meet this 1000 staffing level target by the close of FY 91 at the current rate you are going?

ANSWER: As of September 30, 1988 the on-board staffing level for FPO's was 763. Since that time we were only able to fill 22 positions. During the same period we lost 53. Although we are actively recruiting for FPO's and have 40 applicants in the pipeline, if this rate does not improve through the remaining portion of the year we may well end up with 750 or less FPO's on-board by close of FY 89. However, we have 117 physical security specialists and 41 investigators currently on-board who possess law enforcement arrest authority and who supplement FPO's when and where necessary in emergency situations. They also exercise this

law enforcement authority in pursuit of their normal duties as required. Our physical security specialists are highly trained and motivated professionals who perform a key role in our security program. Within this role they conduct physical security surveys (the single most important feature of our security program) maintain liaison with local, state, and federal law enforcement agencies, conduct crime prevention/awareness programs, and monitor the performance of contract security personnel. Because of the high level of training they receive the transition from security specialist to police officer is an easy one. They quickly change into a tactical uniform and perform along side of FPO's during demonstrations and other events requiring a uniformed presence. They are strategically located in 58 cities and are within driving distance of 98% of our buildings. Our future plan is to increase the number of physical security specialists to 132 and locate them in 62 cities. Within the occupations of physical security specialist and criminal investigator attrition rates are not severe therefore, we anticipate little change in their numbers by the close of FY 89.

Unless radical changes are made in the FPO's pay and grade structure it is doubtful if the 1000 staffing level target can be achieved by the close of FY 91 based on the current rate of hiring and retaining FPO's. We have made pay comparability studies in all of the major cities, and FPO's, with special pay, are $3000 to $15,000 behind their local counterparts at the starting level and are $7000 to $16,000 behind at the top patrolman level. They also fall short in comparability with other Federal forces, U.S. Park Police, U.S. Capital Police, CIA, U.S. Secret Service Uniformed Division - the range with these organizations varies from approximately $3,500 to $7,000.

Agency Moves

QUESTION: What has precipitated the change in policy in initiated agency moves (forced moves) now making using agencies fully responsible for all costs for the move of telephone and data communications service and equipment instead of the forcing agency? Isn't this unfair, costs being forced upon federal agencies?

ANSWER: GSA policy on telecommunications moving costs was developed in response to the deregulation of the telecommunications industry. However, agencies have always paid for all costs for moving telephone and data telecommunications service and equipment. This is not a new policy. What is new, however, is the method of billing agencies for these costs. Previously the installation of telephones and data telecommunications was a service provided by local telephone companies and was paid by the user via a tariff which was part of the monthly charge made by the telephone company to the user agency. These costs are now billed directly to the agency by a variety of companies providing telephone and data telecommunications equipment and services. What had been a transparent cost on a monthly bill has become a direct cost payable up-front in many cases.

QUESTION: You have advised all Federal Agencies that they must budget for costs to be expected when they are forced to move

from their space. However, how much lead time do you provide, and how can an agency budget for something that may not happen?

ANSWER: GSA, in addition to providing each agency with copies of leases and assignment sheets for all occupied space, intends to notify agencies in writing of the relocation potential 18-24 months prior to the expiration of an agency's lease. Agencies, just like GSA in the past, will base their relocation estimates on the data available at the time of budget preparation. GSA will draw on its experience to assist agencies in determining the likelihood of moving and provide data on relocation costs.

QUESTION: If an agency does employ a sophisticated and costly data communications system in order to perform this mission, is it fair to make them pay relocations costs for this equipment when they are forced to move by someone else? It would seem more logical that the forcing agency be responsible for all moving costs.

ANSWER: Agency data communications equipment is generally considered to be customer premise equipment (CPE). As is the case with all CPE, the agency owning the equipment is responsible for paying the cost of disassembly and reassembly while GSA pays for the cost of actually moving the equipment where there is consolidated service. The agency which owns the equipment is in the best position to forecast the cost of disassembly and reassembly.

QUESTION: How [does] GSA assist agencies in coordinating initiated agency moves? Do you fully research what costs can be expected when an agency is forced to move, and do you try to arrange moves and changes that would have low impact on the Federal Budget? Such as, do you try to move an agency that has very little or less costly space requirements instead of just by selecting who will move because they are adjacent to the space that must be expanded?

ANSWER: GSA assists agencies in planning moves by developing the requirements for an agency's new space, providing assistance in estimating the cost to replicate or upgrade the existing telecommunications system, acquiring the space, and referral to GSA's contractor who is responsible for handling the physical move. In making space assignments, GSA Regional Offices are required to select the space solution which provides the most prudent and judicious use of Government funds and resources. In addition to considering the actual GSA/Agency relocation expenses, GSA considers local market conditions, available vacant space, restrictions imposed by furniture and equipment, professional space management principles, and agency mission needs.

QUESTION: What process does GSA use in determining which agency will move from a building when expansion or change is necessary? Is there a set rule or chart that would prioritize agency standing, such as Federal judiciary has high priority and other agencies are listed in descending order? Who breaks a tie when two or more high priority agencies are vying for the same space?

ANSWER: There are many reasons which cause an agency to move. In expansion situations, the Courts or an agency which has a sizable block of space may cause smaller agencies to relocate. Due to the savings realized by adding to an existing security system and the mission requirements and special requirements of the Courts and Courts related activities, the Federal Judiciary's space requests are generally satisfied in areas adjacent to their existing space assignments.

Each space request is handled on a case-by-case basis. Should two agencies request the same space, a determination is made by GSA on which assignment would be in the Government's best overall interests.

QUESTION: Why is GSA able to significantly change their procedures as they relate to payment for relocations of telecommunications equipment during forced moves without prior notice to affected agencies?

ANSWER: GSA's telecommunications policy was developed in 1987 and issued by the Administrator to all agencies on February 25, 1988. This was revised to accurately reflect the reality of the Federal telecommunications environment in the post-deregulation era, and specifically delineates the responsibilities of GSA and all Federal agencies regarding the provision and management of telecommunications resources in GSA controlled space. Our issuing instructions recognized that agencies would need time to budget for telecommunications costs associated with moves and would not be able to immediately pay these costs. As a result, our instructions stated that GSA would work with agencies on a case-by-case basis to determine an agency's ability to pay telecommunications costs until October 1, 1989. Effective October 1, 1989 (beginning Fiscal Year 1990), agencies assume the financial responsibility for moving telecommunication equipment and services. We believe the 19 month transition period is sufficient notice for agencies to budget for these relocation costs.

Administrative Office of the U.S. Courts

QUESTION: Can you provide the Committee with a copy of the Memorandum of Understanding (M.O.U.) between the Administrative Office of the U.S. Courts (AOC) and GSA?

ANSWER: Attached is a copy of the signed MOU.

MEMORANDUM OF UNDERSTANDING
BETWEEN THE GENERAL SERVICES ADMINISTRATION AND
THE ADMINISTRATIVE OFFICE OF THE U.S. COURTS

PLANNING AND FUNDING U.S. COURT SPACE
REQUIREMENTS

1. Establishment of Priorities

(a) The Administrative Office of the U.S. Courts (AOC), in coordination with the General Services Administration (GSA), will plan and establish priorities for all prospectus-level and non-prospectus-level work related to new and/or renovated court space and facilities.

(b) GSA, in coordination with the AOC, will develop a housing strategy for meeting court space requirements, in accordance with locations and time frames identified by the AOC.

(c) GSA will establish priorities for work related to the repair or replacement of building structures and/or systems in buildings that house the courts and will, in coordination with the AOC, determine whether it is desirable that such work should be performed concurrently with court expansion or renovations.

2. Funding for Court Space Requirements

(a) GSA will bill the Judiciary Rent for standard level space and related services at a rate that is sufficient to cover projected obligations by GSA for the standard level operation and maintenance of court space during the fiscal year. This will include custodial services, utilities, day-to-day maintenance and repair, cyclical maintenance and repair in accordance with normal practice, protection and security, lease payments, purchase contract payments, and general management and administration. It will also include an allowance for costs of repairs to the structure and systems of buildings in which the courts are assigned space.

(b) The Judiciary will reimburse GSA for all operating costs related to court space (such as the use of utilities after-hours) in excess of standard level services normally provided by GSA in support of space occupied by U.S. Courts. These additional operating costs will be established in accordance with agreed-upon procedures.

(c) The Judiciary will reimburse GSA for all obligations incurred by GSA for the design, construction, management and inspection of prospectus-level and non-prospectus level work involving renovation or alteration of existing court space, and construction of new court space.

(d) The cost to GSA of displacing other agencies in order to satisfy court space requirements will be reimbursed by the Judiciary. However, in instances where GSA and the AOC agree that changes are made for the convenience or needs of Executive or Legislative Branch elements, associated costs will not be reimbursed by the Judiciary.

3. Coordination of Planning and Budgeting Between AOC and GSA

(a) Prior to the formulation of the GSA and AOC budgets, GSA will provide to the AOC an estimate of the total commercially-equivalent Rent bill for court space for the budget year; the portion of Rent that will actually be billed by GSA for standard level operation, maintenance and repair; and the portion of total commercially-equivalent Rent that will be available to the Judiciary to cover other reimbursable items, such as repairs, alterations, and new construction.

(b) Prior to the formulation of the GSA capital projects plan and budget, the AOC will provide GSA with prioritized requirements for new and renovated court space for the budget year.

(c) GSA will, in coordination with the AOC, develop a housing strategy for satisfying the space and facilities requirements of the courts.

(d) GSA will develop cost estimates for providing new or altered space in accordance with standards for Judicial space established by the Judicial Conference of the United States. The standards for Judicial space will be published in consultation with GSA. Until new judicial standards are established, interim arrangements (design guide) will be agreed upon by the AOC and GSA. Authorization to exceed judicial standards on a particular project will be provided GSA in writing.

(e) GSA, in coordination with the AOC, will prepare and submit to OMB and Congress all prospectuses for capital projects where the estimated construction cost will exceed GSA's prospectus authority.

(f) The AOC will request in the Judiciary budget sufficient funds to cover all projected court-related obligations to be incurred by GSA for the budget year. This will include the total commercial-equivalent Rent, plus any additional reimbursable costs in support of approved courts' requirements. When exceptional, new construction costs are anticipated that cannot be funded by that portion of Rent remaining after funding the standard level operation and maintenance of court space, GSA and the AOC will jointly determine the best approach to request additional funding during the budget formulation stage.

(g) GSA will include in its budget request for new obligational authority an amount that is equal to the projected costs for standard level operation, maintenance and repair of court facilities. GSA will include in its budget estimate for reimbursable services an amount that is equal to projected reimbursement from the courts for above-standard services, renovation and alteration of existing court space. New construction will be as agreed upon in Paragraph 3(f) above.

(h) In the event that GSA will directly fund new construction in accordance with Paragraph 3(f), GSA and the AOC will develop a methodology for replenishing the Federal Building Fund for these court related expenditures by appropriations made available for the courts subsequent to the budget year.

(i) GSA and the AOC will coordinate all court-related budget issues with OMB and congressional committees.

4. Implementation Plan

This plan is proposed for implementation beginning with the FY 1990 budget cycle.

5. Other AOC/GSA Agreements

All other agreements between the AOC and GSA, not in conflict with provisions of this memorandum of understanding, remain in effect.

L. Ralph Mecham
Director
Administrative Office of the
United States Court

Terence C. Golden
Administrator
General Services Administration

QUESTION: Can you also tell us if the terms of the M.O.U. are being fully complied with?

ANSWER: By letter dated October 11, 1989, from the Acting Administrator to Mr. Gerald Riso, Associate Director for Management, OMB, GSA withdrew the M.O.U. from consideration.

GSA's Office of Facility Planning is continuing to work closely with the AOC to implement the planning provisions of the M.O.U. Most of the funding provisions of the M.O.U. are also being implemented, with the exception of those provisions that would have departed from GSA's normal policy and practices for charging RENT and budgeting for space and related services for its Federal tenants (2a, 2c, 3a, 3f. 3g, and 3h).

Administrative Surcharge for Space Acquisition

QUESTION: When GSA solicits for space and finds a suitable lessor at a particular rent rate, do you add administrative costs to the price of the lease and charge it to the Federal tenant?

It would appear that GSA, as the landlord for the Government, would try to make space costs for the Federal community reasonable and equitable. Surely some operating costs to administer the lease may be appropriate. However, this charge should not exceed $1-2 per square foot. What is the actual cost or percentage that you add to a lease for this service? Is it true that you now charge an 8 percent or more fee on all leases no matter where in the United States?

ANSWER: GSA is required by law (Public Buildings Amendments of 1972 (40 U.S.C. 603 note)) to set and collect commercially comparable rent rates for space and related services provided to federal agencies. GSA adds no administrative costs to leases, and there are no administrative charges to GSA client agencies. There are also no fees added to the cost of a lease.

The Rent system employed by GSA is based upon a five-year cycle. In the first year, GSA establishes commercially comparable rates for both Government-owned and leased buildings under its control based upon private sector appraisals. The rates reflect the fair market rental for the type, location, and quality of space. For years 2 through 5, annual adjustments based on actual GSA cost experience and 25% of the Consumer Price Index (CPI) in the area are passed through to the client agencies.

The Rent that GSA charges to its Federal tenants must be sufficient not only to cover GSA's operating costs, but also to provide funds for capital investment (repairs and alterations, new construction and building purchase). Most of these capital investment funds are provided by the Government-owned buildings in GSA's inventory, where the commercial-equivalent Rent rates exceed GSA's operating costs. The Rent charged for most leased buildings is equivalent to GSA's costs.

Southwest Border Capital Improvements Initiatives

QUESTION: The southwest border improvement plan contemplates the design and construction of a new 200-truck-import lot at Laredo, Texas, because the existing lot is currently inadequate and cannot be sufficiently expanded. I understand that the planned site for the export lot is currently occupied by low-income housing. How was this site chosen, what is the plan for suitably relocating the residents that are displaced?

ANSWER: The proposed expanded commercial lot adjacent to the Juarez-Lincoln border station was identified by the Customs Service in their 1987 survey of border stations. GSA is currently studying the feasibility of the proposed 200-truck-import lot as well as a proposal to build a double decker dock at the site of the existing import dock along the Rio Grande. If the Azteca site is used, normal Federal laws, rules, and regulations regarding relocation assistance will be followed.

QUESTION: I understand that the Mexican government plans to construct a third bridge in Laredo. What impact will this new bridge have upon the existing plans for the border station enhancements?

ANSWER: There have been discussions of the construction of a new bridge at Columbia, Texas, as well as a third bridge in Laredo itself. These discussions are still in their formative stages. The completion of any bridge and associated infrastructure is several years away at the earliest. GSA, the Customs Service, INS, Agriculture, and the City of Laredo are interested in alleviating the current truck congestion problems. Any solution to the near-term problems will have to take into account future traffic flow between the existing bridges and any future bridges. GSA is studying this issue. The City of Laredo has also commissioned a consultant to look at the potential impacts. The results of these studies will help in determining the most efficient and economical course of action.

QUESTION: The southwest border improvement plan was a comprehensive approach to correcting serious problems with the existing border facilities. The plan encompasses security enhancements to protect Federal law enforcement personnel in addition to enhancements that will facilitate trade and commerce. I understand that GSA has assigned the highest priority to the security related alterations. While security is an important aspect of the improvement plan I am not sure that it was intended to transcend the projects that would increase the efficiency of border transit. What priorities have you assigned to these projects? Do the security alterations dominate the other projects?

ANSWER: GSA worked out a priority ranking for projects with the inspection agencies. The highest priority is safety, and this was reflected in the Congressional authorization for the program that listed particular safety projects. The next priority was the movement of commercial cargo and then passenger vehicles. Within these parameters, GSA's approach is to finish as many of the

smaller projects as possible, and leave for future year funding a smaller number of high price tag projects. Very often the larger projects are more complex and require a greater level of effort in the design and site acquisition phases before GSA is ready for construction funding. The projects planned for future year funding include both renovation and alteration work, new construction, and the completion of some safety work.

Renovation in future years is planned at stations such as Grand Avenue at Nogales, Arizona; the existing station at Calexico, California; and San Ysidro, California. Examples of future-year construction are Los Indios, Texas; Laredo, Texas and Otay Mesa, California. Future year funding of safety work is planned at San Ysidro/Otay Mesa and the existing station at Calexico.

QUESTION: The southwest border improvement plan authorized the design of a new border station at Santa Teresa, New Mexico. I understand that the design of this facility was contingent upon the approval of Mexico. Has a diplomatic agreement been reached on this border station?

ANSWER: There are currently appropriated funds sufficient to design the station at Santa Teresa.

The Government of Mexico in the past has objected to the crossing at Santa Teresa as an illegal border crossing. The Department of State has recently asked the Government of Mexico about their current position on the crossing. Santa Teresa is a proposed agenda item on the planned bilateral U.S. - Mexico border crossing meeting this May.

This project is not near a final diplomatic agreement. If the Government of Mexico is interested in a border crossing at this point, there will have to be a series of exchanges on the exact nature of the proposed crossing, how it will be developed and financed, and when the necessary roads and other infrastructure will be constructed on both sides of the border.

QUESTION: I understand that, in addition to the security improvements at the Douglas, Arizona border station, a new project has been developed to construct a 15-bay truck dock, a new employee parking lot and the expansion of the secondary lot. However, I understand that land acquisition has been delayed because of a lack of funding -- is this so? What is the status of this expansion? Does GSA currently have sufficient funds for this expansion? If not, are the necessary funds included in your FY90 budget?

ANSWER: The initial scope of work at Douglas included the 15 bay truck dock and other improvements discussed above. On January 20, 1989, GSA received an official change in scope of work from U.S. Customs. This change increased the dock from the initial request of 15 to 20 trucks, the number of primary lanes from 3 to 7 and the number of secondary lanes from 15 to 20. A change in scope of this size will not fit on the site initially contemplated. GSA is currently evaluating this change in project scope, and will present a report at the April regional border station meeting. It

will cover potential costs and land acquisition requirements. The other inspection agencies, Agriculture and INS, will be asked to respond to the Customs proposal. From these deliberations GSA will be able to determine future funding requirements, and the work and site acquisition actions that can be taken with the funds presently available.

QUESTION: I understand that a replacement border station is being contemplated at Naco, Arizona. U.S. Customs has requested that the existing border station be expanded pending the design of a new station. However, our reports indicate that drainage problems exist at the port and are being studied by the Army Corps of Engineers. Has the Corps of Engineers completed their study? What are their findings? What impact will this have upon the existing plans?

ANSWER: The Corps of Engineers has recently completed a drainage study. The Corps does not recommend any work at the current facility. At any new station they recommend subsurface work.

The construction contracts for both the renovation and the safety work at the existing station have been awarded. All the work is expected to be completed at the end of March 1989.

FTS 2000 PROCEDURES

QUESTION: Were the General Services Administration telecommunications procedures published in the Federal Register? If so, when, and were any responses from agencies received which challenged the changes to the funding responsibilities?

ANSWER: GSA's interim rule will prescribe policies and procedures regarding FTS 2000. In accordance with Public Law 98-577, the interim rule will be published in the Federal Register with a request for agency comments. GSA has also requested advance comments from the FTS 2000 Interagency Management Council and the FIRMR Advisory Council on its proposed interim rule. To date, none of the agencies commenting have challenged making FTS 2000 mandatory.

A-76

QUESTION: Your FY 90 budget request is for $274.2 million which represents $9.7 million increase over the FY 89 enacted level, but your staffing is being reduced by 181 positions. Your justification states this staffing reduction is due to OMB-imposed A-76 savings. Can you tell me specifically how OMB expects you to achieve these savings?

ANSWER: OMB has established a target in FY 1989 of 605 FTE that GSA must study under OMB Circular A-76. OMB has assumed that we will complete the studies and has

anticipated a savings rate in excess of 40 percent to be realized in FY 1990. Accordingly, GSA has over 80 A-76 reviews underway in FY 1989. This involves a great amount of time, cost, and effort at every level of the agency to achieve this objective. However, it is this level of effort that is required and OMB implicitly wants of GSA, so as to achieve the savings that have already been included in the FY 1990 Congressional budget request.

MOVEMENT OF HOUSEHOLD GOODS

Question: GSA regulations require that the movement of household goods be centrally administered by GSA. In FY 1987, GSA delegated this authority to use a private relocation company, on a test basis, to the Social Security Administration. The test results indicated that the program as administered by the Social Security Administration produced cost savings in addition to improved user satisfaction. In light of the success of permitting agencies the authority to utilize relocation companies to move household goods why has GSA prohibited other agencies from using relocation companies? What plans do you have to improve the efficiency of the movement of household goods?

Answer: Congress authorized Government agencies to enter into contracts with relocation companies in November 1983 (Public Law 98-151). The law specifically identified arranging for the purchase of a transferred employee's residence as being within its scope. Although contracting for other services was not prohibited, Federal agencies were most concerned with protecting transferring employees from the potential liability of carrying two mortgages. GSA therefore focused on home buying and selling in its implementation of the law.

GSA's original implementation of Public Law 98-151 prohibited agencies from contracting with relocation companies for other services similar to those already established by GSA, such as the Centralized Household Goods Program (CHHGP), the airline contracts and travel management centers. Under existing contracts and/or Federal Property Management Regulations (FPMR), agencies were mandatory users of those services.

One exception to this policy was approved. The Social Security Administration (SSA) entered into a contract with a relocation company (Homequity) requiring it to perform all of the household goods transportation services and allowing it to use its own negotiated rates under specified circumstances. Ordinarily under the provisions of the FPMR, the authority to negotiate rates is exclusively reserved for GSA as part of the CHHGP.

SSA and Homequity concluded that their pilot project (covering 495 employees) saved money for the Government. GSA was concerned, however, that comparable savings might not be available on a Governmentwide basis. Civilian agencies move an estimated 30-35 thousand employees a year.

Primarily as a result of SSA's satisfaction with the Homequity program, in December 1987, GSA eliminated its regulatory prohibition on contracting with relocation companies for certain transportation-related services. However, GSA deferred action on allowing relocation companies to negotiate transportation rates for Federal employees.

GSA believed that relocation companies naturally would concentrate on agencies whose moves would yield the most profit to them, and that GSA's ability to negotiate good discounts for the remaining agencies could be significantly diminished. In addition, it was not clear what impact this change would have on the household goods moving industry.

GSA's goal continues to be the presentation of reasonable prices and service levels for all agencies. We believe the optimal approach would be for GSA to:

(1) Establish a contract for shipment handling services that could be used by other civilian agencies. Basically this would include all services (i.e., employee move counselling, shipment booking, inspection services and claims processing) normally performed by the agency. The household goods line-haul transportation services rates would continue to be negotiated by GSA. This service would be offered as an alternative to agencies currently performing the shipment handling services in-house and who have chosen not to contract with third party relocation firms.

(2) Initiate a public rule-making proceeding, during the second quarter 1989, to analyze the impact of removing all regulatory barriers to relocation companies negotiating transportation rates for household goods moves. Under the provisions of the Administrative Procedures Act, this would give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments.

MOTOR VEHICLE FLEET

Question: The Consolidated Omnibus Budget Reconciliation Act of 1985, or COBRA, requires that agencies conduct cost studies on their motor vehicle fleets and the GSA's Interagency Fleet Management System, along with commercial suppliers, bid on meeting those agencies' requirements. What is the status of the COBRA studies? Has GSA bid on any study? What was the result?

Answer: Several COBRA studies are in process as of this date. The Department of Energy has reported their study complete. The Department of Agriculture and the United States Customs Service are beginning the solicitation or bidding phase of their COBRA studies. The Federal Supply Service (FSS) has submitted a formal offer to the Department of Labor's Mine Safety and Health Administration (MSHA) which was issued on December 19, 1988 and closed January 30, 1989. FSS is awaiting the results of that offer.

In terms of the GSA Interagency Fleet Management System solicitations, Auburn, Washington was selected as the first region to go out with a solicitation. The statement of work has been completed and is being reviewed by the contracting officer. The scheduled solicitation issuance date is May 1989 and we are on target with that date.

Question: If GSA is the low cost offeror on the COBRA studies, how will you handle expanding your fleet by up to 150,000 vehicles? Where will you get the people and dollars to provide the cars and services?

Answer: The General Supply Fund (GSF) which finances the Interagency Fleet Management System (IFMS) is presently undercapitalized in terms of financing the potential COBRA growth. With the potential of a 150,000 vehicle increase, the capital requirement on the GSF would approximate $750 million over the next 3 years. This would require an additional appropriation, in order to take advantage of the savings envisioned by the COBRA legislation. In terms of staffing resources, Full-Time-Equivalent (FTE) ceiling would have to be realigned from the using agency to GSA, the same as with normal consolidations, since GSA does not have sufficient FTE to support the additional requirements. Where agencies could not provide GSA with the necessary staffing resources, OMB will likely have to approve additional FTE to GSA if the COBRA requirement is to be honored.

RELOCATION OF FEDERAL AGENCIES

QUESTIONS. In Fiscal Year 1989 the committee provided the General Services Administration (GSA) with $10 million to continue the relocation of Federal agencies from underutilized space into more cost effective buildings. In these cases, GSA would pay the Federal agency for the costs of relocation to more suitable space. I notice your request in fiscal year 1990 is for $10 million for this program plus $5 million from carry-over balances from previous years. How is this program working? What agencies have taken advantage of this program in fiscal year 1989 and what moves do you anticipate in fiscal year 1990?

ANSWER. To date we have been appropriated a total of $9 million for this program, $5 million in 1988 and $4 million this year. Nearly $4.1 million has been made available to other agencies for projects which are estimated to return nearly $26 million to the government, a return ratio of over 6 dollars for every one dollar spent. The Department of Transportation has 3 properties ($3.8 million allocated) and the Department of Interior has 1 property ($.275 million allocated) which make-up the amounts available. Also, we expect $1.5 million to be allocated for the relocation costs associated with the facility at Loran Station, Makahuena Point, Island of Kauai, Hawaii.

The remainder of the funds appropriated are committed to projects which will be approved this year. There is a great deal of interest in this program on the part of other agencies and we expect no problem in using the funds requested for 1990.

MCKINNEY ACT IMPACT

QUESTION. What impact is the McKinney Act having on your goals for achieving substantial savings from the sale of these properties.

ANSWER. The Department of Justice has recently reviewed our written inquiry of March 17, 1989 as to whether or not relocation properties are exempt from the provisions of the McKinney Act. The Department of Justice response of March 24, 1989 is enclosed. The Department of Justice generally agrees with our position that properties reported excess under the relocation program are not subject to the McKinney Act, and DOJ will review each project on a case-by-case basis.

March 24, 1989

Gordon S. Creed
Deputy Associate General Counsel
Real Property Division
General Services Administration
Washington, D.C. 20405

Dear Mr. Creed:

This will reply to your letter of March 17, 1989, concerning exempting properties subject to the Real Property Relocation provisions of Public Law No. 100-440 from the requirements of the McKinney Act. As you know, we previously advised you that, based on the language of the statute itself and the court's opinion in National Coalition for the Homeless, et al. v. The Veterans Administration, et al., it did not appear that we could state with certainty that this program was categorically exempt from the requirements of the McKinney Act.

We now have considered your letter and conducted further research into the legislative history of the act in question. The legislative history does not shed any light on this subject. There is nothing in the committee report, the subcommittee

hearings or the floor debate which suggests that Congress either intended to exempt this program from the McKinney Act, or that it did not intend to exempt it. The best evidence of congressional intent continues to be the statement in the act itself providing that GSA is not relieved of any obligations or restrictions imposed by other federal law, which would have to include the McKinney Act. In this regard, it is also noteworthy that at the same time Congress was addressing the real property relocation program, it was considering amendments which strengthened the McKinney Act.

We do, however, believe that the argument made in your letter that properties under the relocation program would be declared excess only in an economic sense, and not in the sense contemplated under the McKinney Act, is a very sound one. One can certainly argue that "unutilized," "underutilized," "excess" or "surplus" property under the McKinney Act refers only to physical characteristics, i.e., unused or underused space. This would not be the rationale for declaring property excess in the relocation program.

For this reason, we could support an interpretation of Public Law No. 100-440 which would allow GSA to make relocation decisions on an individual basis without regard to the McKinney Act. However, we cannot state categorically that these properties are exempted from the requirements of the McKinney Act; nor can we assure you that an individual relocation decision would not be challenged by some homeless organization or individuals. We do believe, however, that such decisions would and could be defended in court, if challenged.

As to eliciting the views of plaintiffs' counsel on this subject or possibly requesting court approval, we would not be opposed to this if you have a specific relocation in mind. We do not advise discussing this as an abstract proposition with plaintiffs because our experience with them on such matters leads us to believe that we would not get any clear commitment from them. Moreover, we have recently taken them to task for raising their own abstract questions with us, and have suggested they wait until they have a specific situation they wish to discuss.

We would be happy to discuss this further with you at your convenience.

Sincerely,

Arthur R. Goldberg

ARTHUR R. GOLDBERG
Assistant Director
Federal Programs Branch
Civil Division

Question. Speaking of the McKinney Act, how many sites has the GSA identified as being suitable for homeless shelters?

ANSWER. To date the Department of Housing and Urban Development (HUD) has determined 188 properties suitable for homeless use.

QUESTION. What is the status of the properties identified--is HUD in the process of negotiating with communities?

ANSWER. No expression of interest was received for 86 of the 188 proprietaries. The Department of Health and Human Services (HHS) is currently reviewing applications for homeless use.

QUESTION. Why is this such as slow process?

ANSWER. The basic procedural steps and respective timeframes have been developed pursuant to a court order entered by the U.S. District Court for the District of Columbia on December 12, 1988, resulting from litigation filed by the National Coalition for the Homeless:

(1) HUD has 60 days to review excess and surplus Federal real property submitted by GSA to HUD for homeless suitability determination.

(2) GSA will screen for homeless use for a period of 30 days those properties determined suitable by HUD from the date HUD publishes the list of properties in the Federal Register. Included among screened are State and local governmental officials, local post offices, the National Coalition for the Homeless and its State board of directors, and known shelter providers.

(3) Interested shelter providers must notify HHS of their interest during the 30-day screening period. During that period, HHS will notify GSA if there is a homeless interest and has 15 days from receipt of a completed application to request GSA's assignment of a property.

(4) Federal real property holding agencies should identify available underutilized property and report it directly to HUD for a suitability determination. The holding agency will be responsible for issuing homeless permits for those properties determined suitable.

Questions Submitted by Senator Mikulski

GSA RELOCATION POLICY IN THE D.C. AREA

QUESTION: Could you please provide the Subcommittee with the status of the following Federal agency relocations:

1. NOAA - I understand the construction of building #2 at Silver Spring is ahead of schedule. Is this true, and if so, does this present any funding problems?

Please provide for the record, bill language that would enable the transfer of FY89 funds from the GSA building relocation fund to NOAA for the acquisition of furnishings for building #2.

2. Nuclear Regulatory Commission

3. Food and Drug Administration

4. Internal Revenue Service

ANSWER: 1) The second building at Silver Spring, Maryland is approximately 45 days ahead of the planned construction schedule. Phased occupancy is scheduled to begin in January 1990 and continue through June 1990. In order to meet the scheduled move-in dates, NOAA must order systems furnishings (estimated cost, $1,532,000) not later than July 1989. NOAA has informally indicated that they do not have sufficient funds available to procure the systems furnishings this fiscal year. These furnishings include chairs and file cabinets to accompany the systems furniture which they are leasing. Unlike the furniture, the furnishings cannot be leased; they must be purchased.

2) The Nuclear Regulatory Commission (NRC) completed occupancy of the first building at White Flint in Rockville, Maryland in the summer of 1988. Approximately 1,400 employees are housed in this Government-owned building. Construction of Building Two has been delayed approximately one year by the Maryland National Capital Planning and Parks Commission (MNCPPC). The MNCPPC is insisting that GSA and NRC sign an agreement limiting the number of employees who may occupy the complex. An approval hearing is scheduled for April 1989. If approval is granted, construction will begin during the summer of 1989 and be completed in 1991. In the interim, GSA has continued to extend existing leases to provide continued occupancy by NRC in six leased locations.

3) GSA is currently reviewing a ten-year consolidation plan report developed by the Food and Drug Administration (FDA). FDA was directed to develop this report by the House Committee on Appropriations for Rural Development, Agriculture and Related Agencies. The report is due to the House on June 30, 1989. It identifies new options for the lease or purchase of facilities which would result in the consolidation of FDA activities in the Washington area.

4) An 11b report proposing the consolidation of 1.2 million sq. ft. of the Internal Revenue Service's (IRS) activities was sent by GSA to OMB on February 2, 1988. To date no action has been taken because the exact requirements for IRS are in question. GSA and Treasury will meet on April 18, 1989 to finalize the space requirements for IRS.

PROJECT STATUS

QUESTION: The FY89 Treasury, Postal Service, and General Government Appropriations bill includes funds in the following amounts for the following projects: $7 million for SSA at Woodlawn (Sprinkler System and PCB Abatement); $.8 million for the Garmatz Building (PCB Abatement); $6.9 million for the Fallon Building (Sprinkler System); $2.7 million for Federal Building #3 and #4 at the Suitland Center (PCB Abatement). Have these projects been completed?

ANSWER: The majority of these projects are under construction, and construction contracts for the remainder will be awarded shortly. The status of and planned completion dates of each are as follows:

	PROJECTS	ESTIMATED CONSTR. COST	DESIGN COMPLETE	CONSTR. AWARD	CONSTR. COMPLETE
1.	WOODLAWN PCB	$4,500,000	3/30/88 (Actual)	11/17/88 (Actual)	10/31/89
	WOODLAWN SPRINKLER	2,530,000	5/01/89	09/30/89	12/15/90
2.	GARMATZ PCB	800,000	5/02/88 (Actual)	12/07/88 (Actual)	9/30/89
3.	FALLON SPRINKLER	6,901,000	4/14/89	8/27/89	2/21/91
4.	FB #3, SUITLAND PCB	1,926,000	1/20/88 (Actual)	12/08/88 (Actual)	1/15/90
	FB #4, SUITLAND PCB	817,000	1/20/88 (Actual)	12/08/88 (Actual)	1/15/90

HCFA CONSOLIDATION

QUESTION: Requested in the Senate report accompanying the FY89 Treasury, Postal Service, and General Government Appropriations bill was a report on the consolidation of HCFA. This report, due March 15, 1989, was required to be coordinated between SSA, HCFA, and GSA. Last year this Subcommittee expressed concern that the current building arrangement in Woodlawn is inefficient for agency management purposes and does not offer the kind of quality workspace necessary to function properly. Has GSA signed off on this study? When will the Subcommittee receive a copy of this report?

ANSWER: Senate Report 100-399, as it relates to the Department of Health and Human Services (HHS) Appropriations Bill for fiscal year 1989, directed the General Services Administration (GSA) to assist the Health Care Financing Administration (HCFA) and the Social Security Administration (SSA) in researching and determining the feasibility of separate consolidation actions of the Woodlawn, Maryland locations. GSA has prepared the report in cooperation with SSA and HCFA. We will be forwarding it to HHS for their comments and concurrence within two weeks.

BUREAU OF MINES - AVONDALE, MD

QUESTION: What is the status of the $6.5 million appropriated in the FY89 Treasury, Postal Service, and General Government Appropriations bill for GSA to design and repair the Department of Interior's facilities at Avondale, MD?

ANSWER: The Department of the Interior has selected the Office of Surface Mining as the occupant of the building at Avondale, Maryland. The design effort is underway and will be completed in May of 1989. A construction contract will be awarded in September of 1989, with construction scheduled for completion in May of 1991.

Questions Submitted by Senator Byrd

DRUG ENFORCEMENT ADMINISTRATION

QUESTION: Is there a plan to build a new DEA training facility?

ANSWER: GSA has not received a formal request for additional space from DEA. Upon consultation with the DEA, GSA has learned that the agency is considering acquiring a training site that would be a supplement to the current facilities at the Quantico Marine Base.

QUESTION: What options are being considered in obtaining such a facility?

ANSWER: DEA has been researching the possibility of obtaining a vacant military facility to use for an additional training site for all Department of Justice in-service and State and local drug law enforcement training. DEA has also informed us that the drug law enforcement mission would be best served if it could design and construct a building specifically for drug law enforcement training. However, they feel with the current fiscal constraints, the costs of constructing such a building are prohibitive. Other options that could be considered are leasing or purchase of an already existing structure.

QUESTION: What requirements have been developed?

ANSWER: Since GSA has not been a participant in the search for a training facility, we are not aware of DEA's detailed requirements for such a facility.

QUESTION: I have been advised that land exists in West Virginia bordering Routes 81 and 70 which would be available for the construction of a training facility. What are your views on this matter?

ANSWER: As indicated above, GSA has not received any formal request for additional training space by DEA and has no comment on the desirability of a West Virginia site.

Child Care Center Martinsburg, WV

QUESTION: What is the status of the proposed child care center for the Internal Revenue Service (IRS) employees located in Martinsburg, West Virginia?

ANSWER: The proposed child care center in Martinsburg was originally planned for housing in a modular building. GSA's Philadelphia region met with IRS in January and February, 1989, to further discuss the child care center project. It was agreed that a component of IRS would be relocated from the present IRS Computer Center to a building currently under lease construction in Martinsburg. This will make available approximately 5000 square feet of space in the Computer Center for a child care center. It is expected that the space for the child care center will be vacant by September, 1989, and alterations will be completed by July or August, 1990. The opening for the child care center is planned for September, 1990. IRS agrees with this plan of action.

IRS Facility, Martinsburg, WV

QUESTION: What is the status of the two buildings for the IRS Computer Center and the additional warehouse space?

ANSWER: GSA and IRS have continued to hold joint meetings in Washington, DC, to address the agency's housing plan. As of this date, the IRS has not completed its space studies for the Computer Center. Until these space studies are completed, GSA will be unable to finalize the agency's housing plan.

Leases were awarded for the IRS Warehouse and Training Center on December 29, 1988. Delivery was tentatively scheduled for May 1989 depending on favorable building conditions. However, inclement weather delayed construction start and consequently the space is now scheduled for availability in August 1989.

We will keep you fully informed on any new construction plans and other developments regarding this project.

Bureau of Public Debt Facility Parkersburg, WV

QUESTION: What is the status of the early renewal of the lease agreement of the Bureau of Public Debt facility in Parkersburg, West Virginia?

ANSWER: GSA is currently negotiating and evaluating the lessor's unsolicited proposal for an early acceptance of the renewal of the lease. Agreement will have to be reached concerning the correction of building deficiencies. An award will depend on

extensive negotiations and the cooperation and interaction of the owner, the agency and GSA. We are unable to provide a milestone schedule at this time.

We assure you that we will keep you informed on these negotiations.

U.S. Coast Guard Computer Facility Martinsburg, WV

QUESTION: Please provide for the record an updated status report and a response to my letter regarding the accomplishment of the significant milestone events and other developments regarding this priority project in West Virginia.

ANSWER: In response to your letter dated February 17, 1989, following is a summary of significant accomplishments and a schedule for the remainder of milestone dates on the above project. You may be assured that we will continue to keep you fully informed regarding progress on the completion of this facility.

- o Advertisement was run in January 1989.
- o Draft SFO was sent to U.S. Coast Guard (USCG) for review on January 7, 1989.
- o USCG comments/changes on draft SFO were received by Region 3 Real Estate Division on March 6, 1989.
- o Market survey will be completed by the end of March 1989.
- o Schedule for remainder of milestone dates is as follows:

- Market survey	March 1989
- Issue SFO	April 1989
- Initial Offers Received	May 1989
- Negotiation Completed	Mid-August 1989
- Best & Final Offers Received	Late August 1989
- Recommendation to Agency	September 1989
- Contract Clearances	Mid-October 1989
- Award	Late October 1989
- Construction Complete	Fall 1990

QUESTIONS SUBMITTED BY SENATOR DOMENICI

Building Purchase Program

QUESTION: Why hasn't funding been requested for the Building Purchase program in Fiscal Year 1990?

ANSWER: Within the resources that are available for GSA's Fiscal Year 1990 capital budget, the Repairs and Alterations and New Construction programs were given a higher priority. GSA believes that maintaining the existing government-owned inventory must first be adequately funded before funding the acquisition of new space. The top priorities for acquisition of new government-owned space in 1990, which are replacement of the current EPA

headquarters and Court expansion, can best be addressed through direct Federal construction.

QUESTION: Did your original Fiscal Year 1990 budget submission to OMB request funds for this program? If so, what level of funding was requested?

ANSWER: Our original Fiscal Year 1990 submission to OMB requested $100 million for the Building Purchase program.

QUESTION: This program was designed to allow GSA to purchase quality space at economic prices. Has it achieved its intended purpose? Please be specific.

ANSWER: The Building Purchase Program has been very successful in achieving its intended purpose: the acquisition of quality space at economic prices. The decision to purchase a facility is based on Government requirements in the area, and estimates of cost savings that will accrue to the Government when compared to other housing alternatives (lease or construction of similar space). In most cases, the long-term present value cost of direct acquisition has been significantly lower than the leasing alternative, and comparable to or lower than the direct construction alternative.

QUESTION: How many buildings have been purchased under the program and at what cost? Have all the these buildings been purchased for prices under their appraised values? If not, please explain. What other economic criteria are used by GSA to justify a purchase under this program?

ANSWER: Since the program's inception, GSA has purchased 13 buildings totalling 3.5 million occupiable square feet (OSF) at a cost of $305 million (average cost of $87 per OSF).

There have been cases where the total acquisition cost of building was above the appraised value. This has occurred in two projects: Judiciary Square in Washington, D.C. (1984) and Brickell Plaza in Miami, FL (1986). Appraisals are based on the results of three different appraisal methods that are then resolved to estimate the market value of a facility. The estimating process involves professional judgment, since the basis of the estimate includes the factor of future market expectations along with historic and current factors. Recognition of this is reflected in GSA policy that allows acquisition offers that are slightly higher than the appraised fair market value, as was the case in the acquisitions listed above.

In addition to the subjective nature of the appraisal process, buildings considered for purchase are appraised for "as is" fair market value. In most cases, GSA is unable to begin occupancy under the building conditions that exist at the time of the appraisal. GSA usually obtains additional concessions from the owner beyond the simple acquisition. Concessions can include retrofit work and initial space alterations that must be performed before occupancy by agencies. The most common work items are modifications due to Federal design standards and building codes that are often more stringent than those required by local

jurisdictions. In addition, some retrofit work and initial space alterations are required to meet initial occupancy standards, especially if the space has never been occupied. Much of the work, and its associated cost, is not a component of an "as is" fair market appraisal.

The second primary economic evaluation associated with the Building Purchase Program, and in fact all major GSA capital investment programs, is a 30-year present value comparison of alternative acquisition methods that includes both initial capital and operating costs. The methodology for this comparison is prescribed in Office of Management and Budget Circular A-104. The economic merit of a potential acquisition is compared to the overall cost of other housing alternatives. A clear economic preference must exist before GSA proceeds with the acquisition process.

Repairs and Alterations - Health and Safety

QUESTION: Given GSA's fiscal year 1990 request, what is the current unfunded inventory of critical repair and alteration projects, i.e., those related to health and safety? Please identify these projects by category, i.e., asbestos removal, fire safety, etc.

What is GSA's schedule for completing those projects which have not yet been funded or for which no funds are requested in fiscal year 1990?

Given the priority nature of this work, why hasn't funding been requested for these projects in fiscal year 1990?

How many of these projects have been completed to date and at what cost?

ANSWER: GSA's inventory of unfunded repair and alteration health and safety projects for fiscal years 1990-1994 is approximately $348 million. Of this amount approximately $160 million is for asbestos abatement and $188 million is for firesafety projects.

GSA's 1990 R&A request completely addresses our inventory of health and safety projects required in 1990. Those projects in GSA's inventory that are scheduled beyond 1990 do not pose a current threat to the health and safety of Federal employees or the visiting public, and will be scheduled for inclusion in future years budgets.

Many of these projects for asbestos abatement and firesafety improvements will be included in larger building renovation projects. It will be prudent at that time to upgrade the overall condition of facilities, since no health and safety hazards currently exist. The priority programs have already been addressed on an expedited basis.

A total of 128 buildings with Government-owned PCB transformers were identified for funding over fiscal years 1986 through 1989. Funds totaling $86 million were provided in fiscal years 1987 through 1989 for accomplishment of the PCB work. To date, 57 projects have been completed at a cost of $13.5 million, 52 projects costing $53.3 are under construction, and 21 projects

estimated at $19.2 million are scheduled for award by the end of Fiscal Year 1989.

During fiscal years 1985 to 1988, GSA completed 202 asbestos projects totally $34.6 million and another 87 projects totalling $29.1 million are scheduled for completion in fiscal year 1989.

GSA has identified 73 priority firesafety projects. To date, 12 projects have been completed at a cost of $15.9 million, 26 projects totalling $63.9 million are under design, 30 are under construction totalling $74.9 million, and 5 of the locations initially identified have been declared excess to GSA needs.

Repairs and Alterations - U.S. Courts

QUESTION: What percent of the total Fiscal Year 1990 Repairs and Alterations program is required for projects supporting the U. S. Courts?

ANSWER: A total of $14.5 million, or 3.3 percent, of the FY 1990 Repairs and Alterations (R&A) budget activity is earmarked for projects supporting the U.S. Courts. However, We would like to bring to your attention the fact that $38.2 million in additional FY 1990 funding for Court expansion work is reflected in two other budget activities: Design and Construction Services, and Construction and Acquisition of Facilities.

The attached table identifies the amounts that were budgeted for Court expansion work in FY 1988 ($50.0 million) and FY 1989 ($123.9 million), the total amount that is budgeted for in FY 1990 ($52.7 million), and the amount that will be funded in future years as a result of projects initiated in FY 1990 ($130.8 million).

It should be noted that these figures do not include additional amounts that GSA has budgeted for modernization, health and safety, and other types of R&A work in buildings where the U.S. Courts are a tenant, nor do they include the future cost to the Federal Buildings Fund of lease purchase procurements in New York , NY and Chicago, IL or the lease procurement in Tacoma, WA.

FEDERAL BUILDINGS FUND
PROJECTS IN SUPPORT OF U.S. COURT EXPANSION REQUIREMENTS

	FUNDING YEAR ($000)			
	FY 1988	FY 1989	FY 1990	FUTURE YEAR
CONSTRUCTION & ACQUISITION				
Kansas City, KS, FB/CT				
- Site			200	
- Design			2,063	
- Construction				29,475
- Mgmnt & Inspection				1,975

	FUNDING YEAR ($000) FY 1988	FY 1989	FY 1990	FUTURE YEAR
CONSTRUCTION & ACQUISITION (Cont'd)				
Alexandria, VA, CT				
- Site			15,000	
- Design			2,134	
- Construction				33,390
- Mgmnt & Inspection				1,971
St. Croix, USVI, FB/CT				
- Site	550			
- Design	548		335	
- Construction			8,827	
- Mgmnt & Inspection			688	
Sacramento, CA, FB/CT Extension				
- Site				
- Design			405	
- Construction				4,154
- Mgmnt & Inspection				358
Camden, NJ, USPO CtHse Annex				
- Site	300			
- Design	1,186	632		
- Construction		18,728		
- Mgmnt & Inspection		1,217		
Trenton, NJ, FB/CT Annex				
- Site				
- Design		2,518		
- Construction		25,939		
- Mgmnt & Inspection		1,686		
Baton Rouge, LA, FB/CT				
- Site				
- Design	3,000			
- Construction		16,758		
- Mgmnt & Inspection				
Bridgeport, CT, FB/CT Annex				
- Site				
- Design		522		
- Construction		4,138		
- Mgmnt & Inspection		318		
Hartford, CT, FB/CT Annex				
- Site				
- Design		642		
- Construction		6,612		
- Mgmnt & Inspection		430		
Champaign-Urbana, IL, FB/CT				
- Site		1,520		
- Design		660		
- Construction		6,796		
- Mgmnt & Inspection		441		

SUBTOTAL - CONSTRUCTION & ACQUISITION	5,584	89,557	29,652	71,323
REPAIRS AND ALTERATIONS				
Line Item R&A projects				
- Design	3,534	814	4,655	
- Construction	31,548	20,865	5,696	54,944
- Mgmnt & Inspection	1,933	2,438	2,039	4,489
Non-Line Item R&A projects				
- Design	665	634	952	
- Construction	6,027	8,930	8,770	
- Mgmnt & Inspection	664	634	952	
SUBTOTAL - REPAIRS & ALTERATIONS	44,371	34,315	23,062	59,483
TOTAL CAPITAL PROGRAM	49,955	123,872	52,714	130,806

Southwest Border Capital Improvements Initiatives

QUESTION: Of the southwest border line-item projects included in the Fiscal Year 1988 and 1989 Appropriations Acts, how many have received full funding?

How many will receive full funding under the Fiscal Year 1990 request?

ANSWER: Of the sixty-six project components funded in Fiscal Years 1988 and 1989, the General Services Administration will fully fund fifty if the pending Fiscal Year 1990 budget and the 1989 reprogramming request are approved. Two projects have been cancelled: the Marathon, TX and Otay Mesa, CA, firearms range. The remaining seventeen projects will receive final funding in a future year budget.

QUESTION: Has some work at least begun on each of those line-item projects included in the fiscal year 1988 and 1989 appropriations acts which are not fully funded? If not, please specify the project and the reason why none of the funds have yet been spent.

ANSWER: Work (design, construction, or master planning) has begun on all except four projects. The improvements at Marathon, TX and the firing range at San Ysidro, CA were cancelled at the request of the inspection agencies. No work has been done relating to the yet to be designated bridges at Laredo and Brownsville, TX, since the bridge crossings are still in the early planning stages.

On those line items where no obligations have occurred through February 1989, there has been internal planning work and discussions with the inspection agencies. The specific projects are Los Ebanos, TX, and Amistad Dam, TX.

QUESTION: When will this Subcommittee receive an official request to reprogram Fiscal Year 1989 funds between border facility projects?

Last year, the reprogramming actions proposed were limited to moving funds within a Region. Certainly, this Subcommittee would expect GSA to prioritize projects between its two Regions, 7 and 9. Will the Fiscal Year 1989 reprogramming request include the proposed reprogramming of funds between the two Regions? If not, why not?

ANSWER: The Fiscal Year 1989 reprogramming request has been forwarded to OMB for review. It is anticipated that this request will be submitted to the Subcommittee in April 1989.

The Fiscal Year 1989 reprogramming request prioritized projects without respect for Regional boundaries. It was not necessary to redistribute funds between the two Regions to meet these requirements.

QUESTION: Since the details of the Fiscal Year 1989 reprogramming proposal were not available at the time the Fiscal Year 1990 budget was formulated, how did GSA determine which projects and the level of funding for each of these projects to include in the Fiscal Year 1990 request?

Now that you have a rough idea of the reprogramming actions which will be required for Fiscal Year 1989, are any changes required in your Fiscal Year 1990 request for southwest border facility projects? If so, what changes are appropriate?

ANSWER: The Fiscal Year 1990 project list was based on the assumptions contained in our reprogramming request. No adjustments to Fiscal Year 1990 funding are necessary at this time. The actions necessary to support the Southwest Border Station program were known at the time GSA finalized the Fiscal Year 1990 budget request.

QUESTION: Would you please provide for the record, a list of the meetings which have been held with the border trade community on each of these projects, indicating the date of each meeting.

ANSWER: GSA has had contact with the border trade community through letters, telephone conservations, and meetings since the implementation of the capital improvements initiative began in the spring of 1988. In addition, Customs and INS have regular meetings and discussions with the border trade community on facility requirements. Often, the outcome of these meetings is channelled to the GSA regional border station working groups by INS, Customs and Agriculture. GSA will provide a listing of meetings, telephone, and letter contacts with the border trade community to the Committee, as soon as it can be compiled.

QUESTION: There has been some concern expressed by the border trade community that GSA has given priority to those projects involving repair and alteration work or security improvements above those projects which will facilitate the flow of traffic and

processing of cargo along the border. Is this repair and alteration work in fact being given priority. If so, why?

ANSWER: GSA worked out a priority ranking for projects with the inspection agencies. The highest priority is safety, and this was reflected in the Congressional authorization for the program that listed particular safety projects. The next priority was the movement of commercial cargo and then passenger vehicles. The implementation of these priorities is constrained by Federal Buildings Fund resources. Within these parameters, GSA's approach is to finish as many of the smaller projects as possible, and leave for future year funding a smaller number of high price tag projects. The projects planned for future year funding include both renovation and alteration work and new construction. Renovation in future years is planned at stations such as Grand Avenue at Nogales, AZ; the existing station at Calexico, CA; and San Ysidro, CA. Examples of future-year construction are Los Indios, TX; Laredo, TX; and Otay Mesa, CA.

QUESTION: Despite the fact that the President's request includes only $25 million in funding for southwest border facility projects in fiscal year 1990, would you please provide this Subcommittee with the full amount of funding required for each of these projects in fiscal year 1990. Please indicate the full amount of that which could be expended in fiscal year 1990, by project, assuming approval of the fiscal year 1989 reprogramming actions GSA intends to propose.

ANSWER: The amount requested is the maximum amount which can be obligated based on current project schedules. If at some point in the future, a particular project can be accelerated, GSA would make every effort to provide additional funding through reprogramming.

QUESTION: Would you please provide for the record a status update on each project, indicating the amount of funds available and the amount obligated in each of fiscal years 1988 and 1989.

ANSWER: The following tables for GSA Regions 7 and 9 reflect the amount of funds available and the cumulative amount obligated through February 28, 1989, for the fifty-six line item projects.

Southwest USA Border Capital FY 1988 and 1989 Improvements Initiative

Region 7

Project Name	Adjusted Appropriation For FY 88	FY 1989 APPROPRIATIONS	TOTAL APPROPRIATION	TOTAL CUMULATIVE OBLIGATIONS AS OF 2/28/89	UNOBLIG. BAL. AS OF 2/28/89
1. Ysleta, El Paso, TX	2,651,320	1,501,200	4,152,520	85,005	4,067,515
2. Bridge of the Americas, El Paso, TX	1,292,200	1,700,300	2,992,500	1,505,776	1,486,724
3. Paso del Norte, El Paso, TX	2,850,000	639,400	3,489,400	308,702	3,180,698
4. Juarez-Lincoln Bridge, Laredo, TX	5,745,000	1,668,000	7,413,000	720,762	6,692,238
5. Replace RRB, Laredo, TX	18,000	0	18,000	956	17,044
6. Convent St., Laredo, TX	301,710	1,473,400	1,775,110	220,141	1,554,969
7. New Bridge, Columbia, Laredo, TX	0	278,000	278,000	0	278,000
8. Gateway, Security, Brownsville, TX	32,000	218,000	250,000	16,949	233,051
9. Gateway, Expand Lanes, Brownsville, TX	196,135	1,253,865	1,450,000	79,817	1,370,183
10. Gateway, R&A/NB/Extension, Brownsville, TX	1,200,000	4,311,135	5,511,135	516,580	4,994,555
11. Amastad Dam, TX	0	83,400	83,400	0	83,400
12. B&M Bridge, Brownsville, TX	1,173,000	1,794,300	2,967,300	311,183	2,656,117
13. Los Indios Bridge, New Station, Brownsville, TX	587,000	105,700	692,700	34,201	658,499
14. Antelope Wells, NM	299,000	158,500	457,500	20,940	436,560
15. Columbus, NM	200,000	236,300	436,300	17,849	418,451
16. Fabens, TX	100,000	444,800	544,800	47,226	497,574
17. Ft. Hancock, TX	100,000		100,000	58,425	41,575
18. Presidio, TX	300,000	556,000	856,000	69,910	786,090
19. Progresso, TX	255,000	222,400	477,400	53,730	423,670
20. Roma, TX	650,000	305,800	955,800	49,570	906,230
21. Expand Lanes, Del Rio, TX	445,000	597,700	1,042,700	120,772	921,928
22. Security, Del Rio, TX	250,000		250,000	35,948	214,052
23. Replace Station, Del Rio, TX	3,465,000		3,465,000	52,763	3,412,237
24. Los Ebanos, TX	150,000		150,000	0	150,000
25. Eagle Pass, TX	480,000	2,251,800	2,731,800	301,632	2,430,168
26. Rio Grande City, TX	60,000		60,000	13,822	46,178
27. Hidalgo, TX	289,510	617,200	906,710	138,884	767,826
28. Falcon Dam, TX	400,000	172,400	572,400	54,555	517,845
29. Santa Teresa, NM	378,000	1,668,000	2,046,000	5,539	2,040,461
TOTAL (REGION 7)	23,867,875	22,257,600	46,125,475	4,841,637	41,283,838

NOTE: SPREADSHEET DOES NOT INCLUDE THE PENDING FY 89 REPROGRAMMING REQUEST.

Southwest USA Border Capital FY 1988 and 1989 Improvements Initiative

Region 9

	Adjusted Appropriation For FY 88	FY 1989 APPROPRIATIONS	TOTAL APPROPRIATION	TOTAL CUMULATIVE OBLIGATIONS AS OF 2/28/89	UNOBLIG. BAL. AS OF 2/28/89
1. Mariposa, Nogales, AZ (R&A & Safety)	390,830	746,800	1,137,630	251,516	886,114
4. Grand Ave., Nogales, AZ (Security/R&A)	557,310		557,310	340,981	216,329
3. Morley Gate, Nogales, AZ	64,000	2,420,900	2,484,900	[illegible]	2,458,311
5. Sasabe, AZ (R&A/Safety/New Facility)	0	355,300	355,300	0	355,300
5. New Station, Calexico, CA	880,000		880,000	66,352	813,648
6. New Dock/Office, Calexico, CA	655,000	4,830,900	5,485,900	60,899	5,425,001
7. R&A, Calexico, CA	628,790		628,790	220,477	408,313
8. Virginia St., San Ysidro/Otay Mesa, CA	75,000		75,000	43,013	31,987
9. Safety Work, San Ysidro/Otay Mesa CA	2,350,353	2,673,900	5,024,253	144,075	4,880,178
10. R&A, San Ysidro/Otay Mesa, CA	1,172,980		1,172,980	373,444	799,536
11. Improve Commercial Lot, San Ysidro/Otay Mesa, CA	456,950	4,956,200	5,413,150	3,452	5,409,698
11. Firearms Range, San Ysidro/Otay Mesa, CA	350,000		350,000		350,000
13. Reconfig Lanes, San Ysidro/Otay Mesa, CA	95,500		95,500	31,064	64,436
14. Signs/Security, San Ysidro/Otay Mesa CA	517,000		517,000	31,003	485,997
15. Andrade, CA	243,000	454,300	697,300	25,686	671,614
16. Lukeville, AZ (Safety & R&A)	213,000	229,100	442,100	48,828	393,272
17. Naco, AZ	242,000	320,900	562,900	51,510	511,390
18. San Luis, AZ	185,600	499,300	684,900	47,369	637,531
19. Douglas, AZ, (R&A & Safety)	346,000	820,700	1,166,700	248,056	918,644
20. Tecate, CA, R&A	886,872	861,800	1,748,672	274,288	1,474,384
21. Otay Mesa, CA, Land	6,500,000	721,700	7,221,700	6,451,174	770,526
TOTAL (REGION 9)	16,810,185	19,891,800	36,701,985	8,739,776	27,962,209
R&A TOTAL	40,678,060	42,149,400	82,827,460	13,581,413	69,246,047

NOTE: SPREADSHEET DOES NOT INCLUDE THE PENDING FY 89 REPROGRAMMING REQUEST.

QUESTION: What is GSA's policy with respect to the work which can go forward on those line-item projects which still require a diplomatic exchange of notes between the United States and Mexico? Which line-item projects funded in the fiscal years 1988 and 1989 appropriations acts fall under this category? Is GSA consulting with the State Department to move this process along?

ANSWER: GSA's approach on the exchange of diplomatic notes and the release of funds is contained in the attached Memorandum of Understanding between the General Services Administration and the Department of State. The approach is that when both the United States and the Government of Mexico are in agreement on a major project or issue, there will be an exchange of diplomatic notes between the two governments. The diplomatic notes describe the understandings reached on the status of the projects. These understandings are intended to provide a reasonable degree of assurance that both countries are proceeding with appropriate and corresponding actions on a particular project. The general policy is that the exchange of diplomatic notes is the designated point in time at which U.S. commitments may be made concerning projects, e.g., contracts for federally-financed border station construction.

There are five projects where diplomatic notes are necessary.

Ysleta, Texas -- We are awaiting final agreement from the Government of Mexico on bridge construction. In the interim, design concepts are being prepared.

Los Indios, Texas -- We are awaiting final agreement from the Government of Mexico on bridge construction.

Santa Teresa, New Mexico -- We are awaiting Government of Mexico information on whether they are interested in this project. At the present time, the Government of Mexico views this as an illegal border crossing. Additional communications conveyed through the Department of State will be required prior to any final agreement on this project.

Calexico, California -- Additional communications will be required with the Government of Mexico to assure that a border station will be built at the proposed new crossing.

Otay Mesa, California -- Additional communications will be required with the Government of Mexico on their plans to provide access and facilities adjacent to the 16-acre site recently purchased by GSA.

GSA works closely with the Department of State in dealing wtih the Government of Mexico, which wants all official communications transmitted through the Department of State. State has worked diligently to move the process along. The delays in correspondence are the result of unresolved political, economic or technical problems involving private developers and local governments on both the United States and Mexican side, as well as project priorities of the newly elected Mexican government.

Memorandum of Understanding
Between
The General Services Administration
and
The Department of State

Statement of Purposes

The purposes of this Memorandum of Understanding (MOU) are: (1) to improve coordination between U.S. executive agencies and with initiators of international bridge and border crossings along the U.S.-Mexican border, and (2) to enunciate the procedures and understandings under which issues related to such bridges and border crossings are resolved within the United States Government (USG) before being raised with the Government of Mexico (GOM).

Interagency Committee - Participants

There is established the Interagency Committee on International Bridges and Border Crossings (Mexico), hereinafter referred to as the Committee. The Committee is comprised of U.S. Federal agencies involved in U.S.-Mexican international bridge and border crossing issues. The Committee meets periodically to resolve technical issues and to provide overall coordination.

Each agency represented on the Committee retains its statutory and regulatory responsibilities for the funding, operation and maintenance of border facilities and services. The Committee may be expanded to include additional agencies as appropriate. The agencies represented on the Committee are:

Department of State, Chairman and Bilateral Coordinator

General Services Administration, Technical and Domestic Coordinator

International Boundary and Water Commission, U.S. Section

Department of the Treasury - U.S. Customs Service

Department of Justice - Immigration and Naturalization Service

Department of Agriculture - Animal and Plant Health Inspection Service

Department of Transportation -
Office of International Transportation
Federal Highway Administration
U.S. Coast Guard

(Note: As of September 1987 this MOU had been signed by GSA, USIBWC, INS, USDA/APHIS, Transportation, HUD, EPA and Commerce.)

Department of Housing and Urban Development - Office of the Assistant to the Secretary for International Affairs

Environmental Protection Agency - Office of International Activities

Department of Commerce - International Trade Administration

Each member agency shall designate its representative on the Committee.

Those agency members of the Committee which have direct interests and responsibilities in the construction, operation and maintenance of border crossings and related inspection facilities shall comprise the United States delegation which meets periodically with a similar delegation from the GOM to consult on issues related to international bridges and border crossings on the U.S./Mexico border. These delegation members shall include the Department of State (DOS), the General Services Administration (GSA), the inspection agencies, and any other agency member which determines that it is appropriate, in light of any understandings reached with the GOM, for that agency to serve on the delegation.

This series of meetings with GOM representatives is the designated channel for discussing international bridge and border crossing proposals between the two Governments. If the Mexican delegation is chaired by the Mexican Secretariat of Foreign Relations (SRE), the U.S. delegation shall be chaired by the Department of State (DOS). Should a Mexican domestic agency chair the Mexican delegation at a particular meeting or sub-meeting, its U.S. counterpart will normally chair the U.S. delegation at that meeting.

Between the periodic meetings with the Mexican delegation, communications with the GOM on international bridges and border crossings may be initiated by any of the agency members of the Committee, and shall be conducted through diplomatic channels. Once international bridge and border crossing projects are approved by the two governments through exchanges of diplomatic notes, described below, communications with the GOM on those projects normally shall be conducted directly between project managers designated in the diplomatic notes.

Interests of private individuals and companies and local and state governments may be represented at meetings of the Committee or at the U.S. delegation's meetings with its Mexican counterpart by one observer each from Governors' offices of the four states located on the U.S.-Mexican boundary. As observers, the Governors' representatives may volunteer suggestions or comments but will not be assigned to undertake tasks in connection with the planning, technical and analytical functions of the Committee.

U.S. Review Process

A border crossing with Mexico, whether a land or water crossing, could be initiated by the GOM, a private individual or company, or a federal, state or local government agency. Proposed changes to existing crossings can be initiated similarly. New projects or proposals for major changes in existing crossings should be submitted to the Committee for consideration of how Federal facilities needed for such projects and proposals can be planned and funded. GSA shall coordinate the review process on the technical and domestic level. DOS will provide any needed coordination with the GOM during the review process. The review will be accomplished through independent review as well as at meetings of the Committee. The constituent agencies shall review the proposals from the perspectives of their own areas of responsibility and under existing legislation and regulations, including the International Bridge Act of 1972 (P.L. 92-434, 86 Stat. 731), and Executive Order 11423 (F.R. 11741, August 20, 1968):

Department of State:
- -- Presidential Permit for new water crossings.
- -- Coordination of communications with the GOM.

General Services Administration:
- -- Impact on border station facility planning.
- -- Impact on funding availability.
- -- Impact on local government/community.
- -- Prospectus submission to OMB and to the Congress.

International Boundary and Water Commission (U.S. Section):
- -- Review of design to assure that the courses of international rivers are not changed, thereby changing the location of the international boundary.
- -- Establishment of the boundary line and placement of an appropriate monument at bridges exactly over the determined international boundary.

Department of the Treasury (U.S. Customs):
- -- Port of Entry designation for new crossings.
- -- Impact on staffing, space, funding, timing, and security and safety requirements for employees.
- -- Develop annual listing of highest priority projects.

Department of Justice (INS):
- -- Impact on staffing, space, funding, timing, and security and safety requirements for employees.
- -- Develop annual listing of highest priority projects.

Department of Agriculture (APHIS):
-- Impact on staffing, space, funding, timing, and security and safety requirements for employees.

Department of Transportation:
-- Coast Guard - Impact on navigable waterways; approval of specific bridge locations and plans; issuance of a permit; assurance that bridge is constructed according to environmental and navigational conditions established under the permit.
-- Federal Highway Administration - Impact on highways

Department of Housing and Urban Development
-- Impact on urban development planning along the border in keeping with White House Southwest Border Initiative.

Environmental Protection Agency:
-- Impact on border environmental quality.

Department of Commerce:
-- Impact on border trade and industry, including tourism, counterfeiting, and gray market.

The Office of Management and Budget (OMB) is a participant in the process when projects require prospectus submission to OMB and to the Congress. OMB reviews the project for consistency with the Administration's goals and priorities for federal investment and resource levels.

Following its reviews the Committee will recommend proposals to be included on the agendas of the bilateral meetings with representatives of the GOM. In keeping with their legal and administrative responsibilities, the agencies represented on the U.S. delegation may choose in these meetings to discuss with GOM representatives comprehensive planning for border crossing needs within an entire community or economic area as well as to discuss individual projects.

Should the Committee decide to consider comprehensive planning discussions with representatives of the GOM, the Committee will proceed according to these guidelines: (1) When a comprehensive planning discussion is elected, each agency on the Committee shall develop an assessment of its needs in that area. (2) Recognizing the primary role of U.S. state and local governments in economic development planning, the agencies represented on the Committee shall take into account economic development plans of state or local governments or of organizations such as regional planning commissions or councils of governments. (3) The Committee shall develop general evaluation guidelines, aggregate the facts and needs presented by each agency, and analyze the relative merits of alternative methods of meeting the needs for federally financed facilities. (4) The Committee shall arrive at a consensus on the posture to be taken by the U.S. delegation before its consultations with GOM representatives.

When both Governments are in agreement on a major project or issue, there will be an exchange of diplomatic notes between the two Governments, initiated alternatively by DOS and SRE. The diplomatic notes describe the understandings reached at the bilateral meetings and/or at other points, if necessary, in the progress of a project. These understandings are intended to provide a reasonable degree of assurance that both countries are proceeding with appropriate and corresponding actions on a particular project. The general policy will be that the exchange of diplomatic notes is the designated point in time at which U.S. commitments may be made concerning projects, e.g., contracts for federally-financed border station construction. After the exchange of diplomatic notes on a project, GSA assumes technical coordination responsibility within the U.S. for implementing the approved border station projects.

When a project has been authorized and funded, SRE and DOS, in consultation with GSA, shall designate the U.S. and Mexican project managers. These designations are specified in the exchange of diplomatic notes. The project managers may resolve technical problems, through direct correspondence, meetings, or other methods, without coordination by DOS. However, DOS shall be notified in advance of meetings and shall be kept informed of the status of the project.

Except for state observers described above, the Committee shall be composed of full-time federal employees. They will act under existing authorities and appropriations. Agency representatives will participate in the activities of the Committee with existing resources and staffs. Agencies and states will bear the travel costs and other expenses of their representatives.

Enactment of the Memorandum of Understanding

This Memorandum of Understanding will become effective upon signature by both the Department of State and the other agency. It shall remain in effect until either party decides to terminate it. It may be modified or extended by mutual agreement.

For the General Services Administration:

W.F. Sullivan

Commissioner, Public Buildings Service

Date November 18, 1986

For the Department of State:

Elliott Abrams

Assistant Secretary of State for Inter-American Affairs

Date 3 NOV 1986

QUESTION: This Subcommittee specifically directed GSA to consult with the other Federal agencies with border responsibilities and with the border trade community to determine not only the scope of each of these projects but the funding priority of these projects. Have the other involved Federal agencies and the trade and border community been consulted on each of the line-item projects included in the appropriations acts? If not, on which projects have they not yet been consulted and why? What changes are being proposed in response to the requirements of the border trade community and the other Federal agencies? Please be specific.

ANSWER: GSA has set up border station working groups composed of GSA, INS, Customs, and Department of Agriculture representatives in Regions 7 and 9. These working groups meet on a regular basis, usually monthly. They deal with the design, scope, cost and any other problems affecting the southern border station program. GSA is responding to the facility requirements conveyed to them by inspection agencies, as well as the concerns of the border trade community.

The border trade community makes its concerns felt through meetings GSA officials have with community members, as well as through meetings, often monthly, that the community has with local Customs and INS officials. These inspection agency officials take into account, to the extent practicable, the trade community's concerns and desires. These desires are transmitted to the facilities offices of Customs, INS, and Agriculture. If agreed to by central office Customs, INS, and Agriculture, they are officially transmitted to GSA through the regional working groups.

The border trade community, through the Border Trade Alliance (BTA), was briefed at GSA in the spring of 1988 on the program, and afforded an opportunity to prioritize the projects. They did not provide such a priority list. The BTA was also fully informed on how the regional working groups operated and GSA's approach toward implementation of the border station initiative at their fall 1988 meeting in Washington D.C. At that meeting they agreed to the approach and were very satisfied with the way the program was implemented. At that meeting GSA requested the names of local Border Trade Alliance contacts in each border city who could speak for their segment of the border trade community. To date, no list of contacts has been received by GSA.

GSA does not unilaterally dictate border station design and facility decisions. The decisions are the result of a consensus reached with Customs, INS, and Agriculture. GSA makes every effort to inform the local community of the contemplated actions. The community then can, and often does, react by contacting GSA, Customs, INS, and their Congressional delegation. When consensus cannot be reached, the project is reexamined until a solution is received that is acceptable to all and can be achieved within a reasonable budget. This acceptable solution may not be the optimum solution for each party involved.

University of New Mexico Grant

QUESTION: In fiscal year 1989, $5 million was provided for a grant to the University of New Mexico for the repair and extension of the Zimmerman Library to house a Center for Southwest Research.

Have these funds been provided to the University? If not, what is the status of the grant?

Is GSA withholding any portion of these grant funds to cover administrative costs? If so what is being withheld and what is the basis for this action?

What requirements, if any, is the University being directed to comply with before GSA releases these funds?

ANSWER: On March 15, 1989 the formal grant agreement between GSA and the University of New Mexico was executed for "...the renovation and expansion of the historic Zimmerman Library at the University to house the Center for Southwest research. This will provide the needed storage, service and preservation facilities for the center". To date the University has neither requested reimbursement for incurred expenses nor has it requested an advance of funds for this project.

In accordance with past practices, GSA retains 1.1% ($55 thousand) of the total to provide for expenses that are directly attributable to GSA's administration of this grant. The unexpended portion of these funds will be made available to the University prior to closeout of the grant.

The University has been directed to prepare a Request for Federal Assistance (SF 424) and to comply with the provisions of OMB Circular A-110 (Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations - Uniform Administrative Requirements) prior to GSA's releasing of funds. GSA has in the past, and will continue to work closely with the University in the preparation of all grant requirements.

FTS 2000

QUESTION: The Fiscal Year 1989 Treasury, Postal Service, and General Government Act includes a general provision requiring mandatory use of services and products available under the FTS 2000 procurement unless GSA finds the agency's needs cannot be satisfied under the FTS 2000 procurement or such procurement would be cost-effective and not adversely affect the cost-effectiveness of the FTS 2000 procurement.

I understand that as a result of this language, GSA has suspended 18 DPA's (Delegation of Purchasing Authority) at eleven different Federal agencies. When does the GSA expect to have completed its review of all 18 DPA's to determine whether they should be granted, cancelled, or amended?

ANSWER: The GSA expects to complete its review and amend, cancel, or reinstate all 18 DPA's by March 23, 1989.

QUESTION: What criteria is GSA using to determine the eventual disposition of these DPA's?

ANSWER: The GSA is using the following criteria:

a. Can FTS 2000 meet the agency's total requirement on time? If FTS 2000 can, GSA will cancel the agency's DPA.

b. Can FTS 2000 meet the agency's total requirement at some significant later date? If FTS 2000 can, GSA will amend the agency's DPA and provide interim authority for non-FTS 2000 services.

c. Can FTS 2000 meet any requirements? If FTS 2000 can, GSA will amend the agency's DPA. If FTS 2000 cannot meet any requirements, GSA will reinstate the agency's DPA.

QUESTION: When will GSA issue final regulations on FTS 2000? Will these regulations in any way interpret the FY 1989 Appropriations Act language? If so, how?

ANSWER: GSA has developed and is in the process of issuing an Interim Federal Information Resources Management Regulation (FIRMR). GSA expects the interim regulation to be issued during May 1989. GSA expects to issue the regulation as a final regulation during FY 1990 and to fully implement the FY 1989 Appropriations Act language in the following manner in both the interim and final regulation:

"Federal agency activities subject to section 111 of the Federal Property and Administrative Services Act of 1949, as amended, (40 U.S.C. 759) shall (a) use the FTS 2000 network to satisfy intercity telecommunications requirements which are within the scope of FTS 2000 network voice, data, and video services as they become available and (b) require their contractors in new awards to satisfy any agency intercity telecommunications requirements by using the Government furnished services of the FTS 2000 network as they become available unless:

(i) The agency requests and obtains an exception to the use of the FTS 2000 network from GSA for its unique requirements which cannot be satisfied by the FTS 2000 network:

(ii) The agency requests and obtains an interim exception to the use of the FTS 2000 network from GSA based on an established date for transition to the FTS 2000 network; or

(iii) An exemption from the use of the FTS 2000 network for the agency is otherwise specifically provided by law."

QUESTION: What will be the estimated net savings to the Government of FTS 2000?

ANSWER: When fully implemented, the two contracts awarded by the General Services Administration to provide new FTS 2000 service are estimated to save the Federal Government approximately $200 million annually when compared to the cost of the current telecommunications services for the Federal Government.

A-76

QUESTION: The budget submission indicates that the fiscal year 1990 request supports the 19,254 FTE positions, a reduction of 181 FTE positions below the level approved for the fiscal year 1989, and that this position decrease reflects savings associated with the contracting-out process under OMB Circular A-76. What is the total amount of savings associated with A-76 activities assumed in the fiscal year 1990 request?

ANSWER: The fiscal year 1990 request assumes that the total amount of FTE positions saved through the A-76 program will be 293. This is an estimate by OMB based on the fiscal year 1989 A-76 study schedule and a target established for our agency to complete reviews of 605 FTE during that period.

QUESTION: Please identify the specific activities which already have or will be contracted out in fiscal year 1990 and the realized or expected FTE position reduction and dollar savings associated with each.

ANSWER: Attachment A is the list of A-76 studies scheduled for review in fiscal year 1990. We have no way of anticipating which studies will result in contracting out nor can we accurately estimate which A-76 review will yield savings. Often, studies require from 10 to 18 months to complete depending on the complexity. Therefore, reviews completed during fiscal year 1990 will not generate substantial savings in FTE and dollars until fiscal year 1991.

QUESTION: How did you compute the number of position reductions and level of savings under A-76 which are reflected in the fiscal year 1990 request?

ANSWER: OMB estimated the A-76 budgetary savings for fiscal year 1990 and reduced our budget request accordingly in November 1988. OMB's method for estimating A-76 savings is in compliance with Executive Order 12615 issued November 19, 1987. The Order states that ". . . beginning with Fiscal Year 1989, [agencies] conduct annual studies of not less than 3 percent of the department or agency's total civilian population, until all identified potential commercial activities have been studied." OMB then applies a percentage reduction rate to the established 3 percent target. This reduction rate is based on savings achieved since fiscal year 1982 which has varied in the 40 percent range for GSA. However, it is apparent that GSA cannot continue this rate since a substantial portion of previous savings has been the result of closures and first time A-76 reviews which yield substantial reductions. The agency is now entering a period when we are reviewing many activities for a second time (required every five years for commercial functions retained in-house after completion of the first review, as required by OMB Circular A-76). These activities are now operating with reduced staffs commensurate with their most efficient organization (MEO). Applying the savings rate from previous years is no longer equitable.

QUESTION: Has GSA done any studies to identify areas where savings might be possible under A-76 in fiscal year 1990? What specific areas have been identified which hold the greatest potential for savings?

ANSWER: GSA anually re-evaluates its functions to ensure that all commercial activities are scheduled for an A-76 study. The latest schedule for fiscal year 1990 was revised in September, 1988 and will be reviewed again in 1989. The agency continues to focus on a declining number of areas where A-76 studies have not been done before and therefore should yield the greatest savings.

In recent years, A-76 reviews of mechanical maintenance functions have often generated the greatest savings. However, we believe that if relief were provided through Congressional acceptance of GSA's proposed modification to the "Edgar Amendment", contained in our General Provision 507, we could begin conducting A-76 studies in fiscal year 1990 of an additional 549 positions that would yield substantial savings. Our proposed modification would allow us to compete or convert to contract primarily custodial and guard positions that are not encumbered by veterans. As positions that are currently occupied by veterans become vacant, GSA will be able to compete an estimated 800 additional positions.

QUESTION: What FTE position reductions and amount of savings have actually been realized in the past five fiscal years as a result of the A-76 contracting out process? Please identify the specific A-76 activities and the nmuber of positions and amount of dollars saved by each.

ANSWER: We have provided attachment B that lists GSA's A-76 accomplishments since fiscal year 1983. While the savings appear to be substantial, it is very important to view them in the proper perspective and realize the abstractions that are not readily apparent.

A substantial portion of the resources reflected as savings are taken out of the budget before the fiscal year begins. For example, as stated earlier, the fiscal year 1990 Congressional budget submission reflects reductions for studies that have not been completed in fiscal year 1989 or 1990. The fiscal year 1989 congressional budget submission likewise was reduced (as were previous budget submissions). Since fiscal year 1989 serves a base year for fiscal year 1990, these reductions perpetuate and compound through subsequent fiscal years.

Savings accomplished through the A-76 process have frequently been used to meet general budget reductions. This has allowed the agency some flexibility in meeting budget cuts that otherwise would have been more painful.

The final comparison where cost competition with the private sector has been completed, includes resource estimates for a 3 to 5 year period from the proposed start date of the contract. Thus the savings reflected on the attached listing, though identified in the fiscal year the study was completed, actually pertains to 3 to 5 years as required by the costing rules of OMB Circular A-76. This fact also has adverse budgetary impact, since the reduction to the budget request reflects a percentage of anticipated savings applied to one fiscal year while in reality, the savings will be spread over the entire term of the contract. Thus the reductions reflected in the fiscal year 1990 submission may not be totally realized until fiscal year 1994.

The government's bid under the rules of A-76 include unappropriated costs such as employee benefits, insurance, depreciation, etc.. Therefore the direct relationship of the appropriated costs of a government function performed today to the price reflected in the government's bid under A-76 is abstract at best.

The nature of GSA's functions under A-76 reviews are personnel intensive. The rules of competiton provide the government the opportunity to restructure its operation into it's most efficient organization (MEO). This often results in reducing the current staff by a number of methods including reassignments to fill critical

vacancies elsewhere in GSA, reductions-in-force (RIF), and downgrading. Reassignments do not reduce the cost to GSA though the savings are apparent in the specific cost competition. RIFs sometimes allow the most senior employees to retain service elsewhere in the organization, bumping newer and less expensive employees. This cost is not often netted against savings. Downgrading required by the MEO reflects personnel costs at the revised lower grade level which is reflected in the government's bid. However, in reality, these employees have a right to save pay at their original annual salary rate and the government does not realize the savings until much later, if ever.

Contractor failure which has resulted in GSA regaining the responsibility for the function contracted out is not costed against the savings on attachment B.

GSA has expended tremendous resources to pursue competition under OMB Circular A-76. These overhead costs are not netted against the savings reflected on attachment B.

COMPLETED A-76 STUDIES
(WITH DOLLAR SAVINGS)
FOR 10/01/83 THROUGH 09/30/88
(AS OF 03/22/89)

Attachment B

(Footnotes last page)

I.D. NO.	ACTIVITY NAME/LOCATION	CURR EMP	MEO EMP	FTE REDUCED	ANNUAL DOLLAR SAVINGS	MILESTONE 20 AWARD/TERMINATE ESTIMATED DATE	MILESTONE 20 AWARD/TERMINATE ACTUAL DATE	REASON CODE
CDOCS003	CUSTODIAL (DEPOT) HAMMOND-IN	2		2	$ 0	841001	841001	J
CFFDF002	BULK FACILITIES-FRANCONIA DEPOT	135	114	135	$ 3,105,272	831001	831001	I
CFFDF003	SUPPLY DIST. FAC., NORFOLK-VA	27		27	$ 810,000	851201	850701	M
CFFDF006	SUPPLY DIST. FAC., KANSAS CITY-MO	58		58	$ 1,740,000	860930	860623	M
CFFDF008	SUPPLY DIST. FAC., DENVER-CO	46		46	$ 1,380,000	850801	860228	M
CFFDF010	SUPPLY DIST. FAC., AUBURN-WA	30		30	$ 900,000	850930	860228	M
CFFDF011	CUSTOMER SUPPLY CENTER, HINGHAM-MA	13		13	$ 390,000	860930	860630	M
CFFDF013	CUSTOMER SUPPLY CENTER, SAN JUAN-PR	7		7	$ 210,000	860930	860630	M
CFFDF015	CUSTOMER SUPPLY CENTER, LIMA-PA	15		15	$ 450,000	860930	860630	M
CFFDF019	CUSTOMER SUPPLY CENTER, KANSAS CITY-MO	21		21	$ 630,000	860930	860630	M
CFFDF025	OFF PROD CTR. NAVY YARD 1. WASHINGTON-	9		9	$ 270,000	860930	860301	M
CFFDF030	SUPPLY DIST. FAC., STOCKTON-CA	303	233	70	$ 2,100,000	871001	871001	C
CFFDP001	ADP DESIGN AND PROGRAMMING	40		40	$ 400,000	840320	840320	J
CFFSF001	SELF-SERVICE STORES (28 STORES)	139		139	$ 4,170,000	850930	850630	M
CFFSF002	SELF-SERVICE STORES (19 STORES)	67		67	$ 2,010,000	850930	850930	M
CKKCC001	IBM-ARCHITECTURE CENTER, WASHINGTON-DC	6		6	$ 1,019,500	850601	850717	J
CKKCP001	COMCEN PROGRAM-DC	53		53	$ 1,590,000	860930	860930	M
CKKCR001	COMPUTING RESOURCES FOR PIRS-DC	7	7	0		831123	831123	D
CKKFI002	FEDERAL INFORMATION CENTER-NY	8	8	0	$ 0	880930	880729	N
CKKSP001	SYSTEMS AND PROGRAMING SUPPORT (KG)	9		9	$ 90,000		840930	J
CKKSP002	IRMS INTERNAL ANAL & PROGRAMMING SUPP-DC	9	0	9	$ 90,000	840713	840713	J
CKKTA001	PHONE ATTENDANT,DIRECTORY,TELECONF	42		42	$ 1,260,000	861001	861001	M
01BMR001	MAILROOM OPERATION, BOSTON-MA	2	1	1	$ 10,000	850520	850521	M
01FMP001	IMP (1-1) BOSTON-MA	7		7	$ 0	831001	831001	J
01FMP002	IMP (1-3) HARTFORD-CT	1		1	$ 0	831001	831001	J
01FMP003	IMP (1-4) PORTLAND-ME	1		1	$ 0	831001	831001	J
01PCS003	CUSTODIAL (MCCORMACK POCT) BOSTON-MA	48		48	$ 627,896	840601	840606	J
01PCS005	CUSTODIAL (FOB) AUGUSTA-ME	1		1	$ 9,550	840201	840629	J
01PCS022	CUSTODIAL (CUSTOMS) BOSTON-MA	8		8	$ 64,315	840501	840427	J
01PCS034	CUSTODIAL (DMA) WEST WARWICK-RI	3		3	$ 3,959	851201	851126	J
01PEM001	ELEVATOR MAINT. (450 MAIN) HARTFORD-CT	1		1	$ 17,595	850201	850226	J
01PMM001	MAINTENANCE (COTTON FB) MANCHESTER-NH	4		4	$ 46,467	840101	840118	J
01PMM002	MAINTENANCE (FC) WALTHAM-MA	8		8	$ 0	850801	850828	J
01PMM003	MAINTENANCE (JFK BLDG) BOSTON-MA	10		10	$ 22,555	840419	840404	I
01PMM004	MAINTENANCE (FB/CT 450 MAIN) HARTFORD-CT	6		6	$ 29,200	850801	850821	J

I.D. NO.	ACTIVITY NAME/LOCATION	CURR EMP	MED EMP	FTE REDUCED	ANNUAL DOLLAR SAVINGS	MILESTONE 20 AWARD/TERMINATE ESTIMATED DATE	MILESTONE 20 AWARD/TERMINATE ACTUAL DATE	REASON CODE
01PMM005	MAINTENANCE (IRS) ANDOVER-MA	9		9	$ 135,368	851201	851024	J
01PMM012	MAINTENANCE (FB) PITTSFIELD-MA	1		1	$ 0	831201	840427	J
01PMM014	MAINT., ST ALBNS/ESX JNCTN/MNTPLR-VT	3		3	$ 0	850901	850918	J
01PMM016	MAINTENANCE (FBPO) PORTSMOUTH-NH	3		3	$ 0	841001	841024	J
01PMM021	MAINTENANCE (FB) NEW HAVEN-CT	3		3	$ 44,935	850518	850516	J
01PMM022	MAINTENANCE (GIAIMO FB) NEW HAVEN-CT	2		2	$ 0	841001	841015	J
01PMM023	MAINTENANCE (FB) AUGUSTA-ME	3		3	$ 0	850801	850807	J
01PMM033	MAINTENANCE (JFK LIB), BOSTON-MA	4		4	$ 108,056	840101	840202	J
01PMM034	MAINTENANCE (CU/VA CLINIC) BOSTON-MA	1		1	$ 118,567	840101	840130	J
01PMM035	MAINTENANCE (APP STORE) BOSTON-MA	3		3	$ 9,797	851115	851114	J
01PMM036	MAINTENANCE (FOA) BOSTON-MA	3		3	$ 0	860106	860305	J
01PMM038	MAINTENANCE (FB) FITCHBURG-MA	2		2	$ 25,088	840701	840713	J
01PMM039	MAINTENANCE (FB, MAIN ST) WORCESTER-MA	2		2	$ 55,334	831201	840110	J
01PMM043	MAINT. (PO/CT/CU) PROVIDENCE-RI	5		5	$ 25,176	860106	860122	J
01PMM046	MAINTENANCE (FB/SSA) BURLINGTON-VT	2		2	$ 0	850701	850712	J
01PMM047	MAINTENANCE (FOB 135 HIGH) HARTFORD-CT	2		2	$ 46,100	830801	831229	J
01PMM049	MAINTENANCE (FB/CU) NEW BEDFORD-MA	1		1	$ 0	850501	850515	J
01PMM050	MAINT & ELEV MAINT (POCH) BOSTON-MA	9	9	9	$ 0	860801	860912	J
02BMR001	MAIL/MESSENGER SERVICE, NEW YORK-NY	6	6	0	$ 0	850701	850701	N
02FMP001	IMP (2-1) NEW YORK-NY	5		5	$ 0	831001	831001	J
02FMP002	IMP (2-2) BUFFALO-NY	3		3	$ 0	831001	831001	J
02FMP003	IMP (2-3) ALBANY-NY	2		2	$ 0	831001	831001	J
02FMP005	IMP (2-7) NEWARK-NJ	3		3	$ 0	831001	831001	J
02FMP006	IMP (2-8) ATLANTIC CITY-NJ	2		2	$ 60,000	850930	850930	M
02PCS001	CUSTODIAL (POCT/FOB) ALBANY-NY	19		19	$ 412,032	841201	841029	J
02PCS002	CUSTODIAL (FED PLAZA) NYC-NY	150		150	$ 1,500,000	851115	840710	J
02PCS003	CUSTODIAL (CTH) BUFFALO-NY	13		13	$ 56,470	850603	850514	J
02PCS005	CUSTODIAL (FOB) NEWARK-NJ	12		12	$ 191,989	841017	841017	J
02PCS009	CUSTODIAL (U.N. MISSION) NYC-NY	9		9	$ 342,936	841101	850125	J
02PCS014	CUSTODIAL (FBCT) ROCHESTER-NY	18		18	$ 86,641	860401	850312	J
02PCS017	CUSTODIAL (FOB) BUFFALO-NY	9		9	$ 90,000	840915	840902	J
02PMM003	MAINT (CUSTOMS (WORLD TRADE CTR)) NYC-NY	12		12	$ 218,294	831014	831014	I
02PMM004	MAINTENANCE (JFK AIRPORT) JAMAICA-NY	9		9	$ 44,776	870301	870205	J
02PMM005	MAINTENANCE (NASA/BDWY) NYC-NY	6		6	$ 329,174	860829	861001	J
02PMM006	MAINTENANCE (PUERTO RICO GROUP)-PR	3		3	$ 29,316	840801	840723	J
02PMM010	MAINTENANCE (FOB) NEWARK-NJ	9	10	-1	$ 0	871001	880309	C
02PMM011	MAINTENANCE (FOB) BUFFALO-NY	10		10	$ 26,175	870130	870202	J
02PMM013	MAINTENANCE (FBCT) SYRACUSE-NY	6		6	$ 0	861101	861118	J
02PMM020	MAINTENANCE (FBCT) ROCHESTER-NY	7		7	$ 102,976	831014	831014	I
02PMM025	MAINTENANCE (SSA OFFICE) BRIDGETON-NJ	1		1	$ 500	841001	841001	J

I.D. NO.	ACTIVITY NAME/LOCATION	CURR EMP	MEO EMP	FTE REDUCED	ANNUAL DOLLAR SAVINGS	MILESTONE 20 AWARD/TERMINATE ESTIMATED DATE	MILESTONE 20 AWARD/TERMINATE ACTUAL DATE	REASON CODE
02PMM034	MAINTENANCE (FDR LIBRARY) ALBANY-NY	3			$ 0	870201	870227	N
02PMM201	MAINT (35 RYERSON) BROOKLYN-NY	2		2	$ 66,560	870923	870923	J
03BMR001	MAILROOM OPERATION, PHILADELPHIA-PA	1	1	0	$ 0	851201	860201	C
03FMP001	IMP (3-3) RICHMOND-VA	2		2	$ 0	831001	831001	J
03FMP002	IMP (3-4) NORFOLK-VA	1		1	$ 0	831001	831001	J
03FMP003	IMP (3-5) HUNTINGTON-WV	1		1	$ 0	831001	831001	J
03FMP004	IMP (3-7) PHILADELPHIA-PA	3		3	$ 0	831001	831001	J
03FMP005	IMP (3-8) PITTSBURGH-PA	3		3	$ 0	831001	831001	J
03PCS004	CUSTODIAL (GREEN FB) E PHILADELPHIA-PA	34		34	$ 618,524	850429	850429	J
03PCS007	CUSTODIAL (FB) HARRISBURG-PA	11		11	$ 187,072	840928	840930	J
03PCS010	CUSTODIAL (POCT) RICHMOND-VA	8		8	$ 114,198	840928	840930	J
03PCS014	CUSTODIAL (FB) CHARLESTON-WV	7	7		$ 0	850318	850601	C
03PCS023	CUSTODIAL (ADP CTR) WOODLAWN-MD	1	1			840930	840930	D
03PCS029	CUSTODIAL (ANNEX BLDG) RICHMOND-VA	6		6	$ 122,534	831201	831201	J
03PCS031	CUSTODIAL (SSA(2)) WOODLAWN-MD	29		29	$ 354,174	850401	850408	J
03PCS201	CUSTODIAL (FB) CHARLESTON-VA	5		5	$ 50,000	860901	860901	J
03PEM004	ELEVATOR MAINT. (FB) NORFOLK-VA	1		1	$ 5,589	840427	840425	J
03PFS007	FULL SERVICE (FB) SALISBURY-MD	3		3	$ 4,407	880502	880511	J
03PFS009	FULL SERVICE (2 BLDGS) LYNCHBURG-VA	2		2	$ 60,000	910401	860815	M
03PFS014	FULL SERVICE (SSA) HAZELTON-PA	1		1	$ 4,236		841001	J
03PMM005	MAINTENANCE (FB) HARRISBURG-PA	6	5	-5	$ 30,000	881101	840524	C
03PMM014	MAINTENANCE (FB) W PHILADELPHIA-PA	17	13	-1	$ 120,000	900930	850411	C
03PMM015	MAINTENANCE (FB/CU) NORFOLK-VA	3		3	$ 65,226	840524	840524	J
03PMM022	MAINTENANCE (FB/SSA) WHEELING-WV	1	1	0	$ 0	881101	831101	C
03PMM023	MAINTENANCE (FB) MORGANTOWN-WV	1	1	0	$ 0	881101	840525	C
03PMM033	MAINTENANCE (NIT) NORFOLK-VA	3		3	$ 63,278	840125	840222	J
03PMM039	MAINTENANCE (FBCT) SCRANTON-PA	1		1	$ 5,045	840801	840801	I
03PMM041	MAINTENANCE (FOB) BLUEFIELD-WV	1		1	$ 1,163	880930	880809	J
03PMM056	MAINT (SSA) SALISBURY-MD	1		1	$ 233	000000	871001	J
03PSS003	SECURITY-DIST IV (FB) HUNTINGTON-WV	2		2	$ 20,000	840801	840914	J
03PSS005	SECURITY-DIST IV (200 3RD) PARKERSBURG-W	4		4	$ 40,000	840801	840914	J
03PSS009	SECURITY (FB) DIST II, BALTIMORE-MD	5		5	$ 71,330	840801	840806	J
04BMR001	MAIL/MESSENGER SERVICE ATLANTA-GA	4	0	4	$ 0	850717	850814	J
04FDS201	DRIVER SERVICES, KSC-FL	31	22	9	$ 346,972	871001	880321	C
04FMP001	FMC (0401) ATLANTA-GA	6		6	$ 350,067	840317	840317	J
04FMP002	FMC (0402) NASHVILLE-TN	3		3	$ 296,411	840317	840317	J
04FMP003	FMC (0403) MEMPHIS-TN	3		3	$ 13,263	840317	840317	J
04FMP004	FMC (0404) RALEIGH-NC	2		2	$ 246,179	840317	840317	J
04FMP005	FMC (0405) TAMPA-FL	1		1	$ 0	840317	840317	J
04FMP006	FMC (0406) MIAMI-FL	2		2	$ 393,353	840317	840317	J

I.D. NO.	ACTIVITY NAME/LOCATION	CURR EMP	MED EMP	FTE REDUCED	ANNUAL DOLLAR SAVINGS	MILESTONE 20 AWARD/TERMINATE ESTIMATED DATE	MILESTONE 20 AWARD/TERMINATE ACTUAL DATE	REASON CODE
04FMP007	FMC (0407) JACKSON-MS	3		3	$ 0	840317	840317	J
04FMP009	FMC (0409) JACKSONVILLE-FL	3		3	$ 0	840317	840317	J
04FMP010	FMC (0412) LOUISVILLE-KY	2		2	$ 354,762	840317	840317	J
04FMP012	FMC KENNEDY SPACE CENTER-FL	37			$ 0	850701	850701	C
04FMP013	FMC COLUMBIA-SC	1		1	$ 10,000	840317	840317	J
04FMP014	FMC (0408) MOBILE-AL	2		2	$ 20,000	840317	840317	J
04PCS001	CUSTODIAL (FBCT) GAINESVILLE-FL	9		9	$ 35,857	850115	850114	J
04PCS002	CUSTODIAL (FB) MIAMI-FL	12		12	$ 0	850102	850114	J
04PCS006	CUSTODIAL (FB) MOBILE-AL	14		14	$ 107,038	841015	841107	J
04PCS009	CUSTODIAL (FBPOCT) TAMPA-FL	9		9	$ 51,892	850115	850114	J
04PCS010	CUSTODIAL (FB) ATHENS-GA	6		6	$ 119,086	841109	841109	J
04PCS014	CUSTODIAL (POCTCU) LOUISVILLE-KY	13		13	$ 117,296	841115	841115	J
04PCS015	CUSTODIAL (POCT) JACKSON-MS	8		8	$ 82,454	841107	841107	J
04PCS016	CUSTODIAL (FB/POCT) CHARLESTON-SC	11		11	$ 91,958	841228	850114	J
04PCS020	CUSTODIAL (CT OF APPEALS) ATLANTA-GA	8		8	$ 150,160	840630	840928	J
04PCS059	CUSTODIAL (FBCT) GREENVILLE-SC	5		5	$ 30,041	850115	850115	J
04PCS098	CUSTODIAL (FB) SANDERSVILLE-GA	1		1	$ 4,272	880930	871001	J
04PCS100	CUSTODIAL (FB) UNION-SC	1		1	$ 10,000	880930	871001	M
04PMM001	MAINTENANCE EAST POINT-GA	2		2	$ 9,989	861201	860924	J
04PMM006	MAINTENANCE, MOBILE-AL	6	6	0	$ 116,782	880601	880602	C
04PMM007	MAINTENANCE (FB/PO-CT) JACKSONVILLE-FL	6	7	-1	$ 0	860901	860401	C
04PMM010	MAINTENANCE, RALEIGH-NC	8	6	2	$ 154,752	880930	880722	C
04PMM014	MAINTENANCE (FB/PO-CT/MP) LOUISVILLE-KY	16	11	16	$ 233,065	860701	860815	I
04PMM016	MAINTENANCE (FB) CLARKSVILLE-TN	1		1	$ 0	870401	870401	J
04PMM017	MAINTENANCE GADSDEN/CENTRE-AL	2		2	$ 25,919	840204	831201	I
04PMM020	MAINTENANCE HUNTSVILLE/CULLMAN-AL	2		2	$ 0	861001	860724	J
04PMM021	MAINTENANCE (FBCT) OPELIKA-AL	1		1	$ 0	840201	840201	I
04PMM022	MAINTENANCE TUSCALOOSA/VERNON-AL	2		2	$ 2,888	870101	861202	J
04PMM024	MAINTENANCE (FBCT) GAINESVILLE-FL	3		3	$ 0	860601	860429	J
04PMM026	MAINTENANCE (POCT) PENSACOLA-FL	1	1	0	$ 0	881101	831201	C
04PMM027	MAINT OCALA-FL	1		1	$ 0	850817	850915	J
04PMM028	MAINTENANCE, ORLANDO/COCOA-FL	3	3	0	$ 0	850307	850121	C
04PMM030	MAINTENANCE (POCT) ALBANY-GA	1		1	$ 0	840808	840822	I
04PMM032	MAINTENANCE (FB/POCT) ATHENS-GA	2		2	$ 19,660	840801	840907	I
04PMM034	MAINTENANCE (FB) BRUNSWICK-GA	2		2	$ 0	831202	840126	I
04PMM037	MAINTENANCE (FBCT) GAINESVILLE-GA	1		1	$ 5,277	840810	840907	I
04PMM039	MAINTENANCE (FB) NEWNAN-GA	1		1	$ 2,996	861001	860919	J
04PMM043	MAINTENANCE (FBCT) BOWLING GREEN-KY	1		1	$ 8,310	840911	840905	I
04PMM049	MAINTENANCE (FB) ABERDEEN-MS	1	1	0	$ 0	881101	840104	C
04PMM054	MAINT, GREENWOOD/GREENVILLE-MS	1			$ 0	880301	880229	N

I.D. NO.	ACTIVITY NAME/LOCATION	CURR EMP	MED EMP	FTE REDUCED	ANNUAL DOLLAR SAVINGS	MILESTONE 20 AWARD/TERMINATE ESTIMATED DATE	MILESTONE 20 AWARD/TERMINATE ACTUAL DATE	REASON CODE
04PMM056	MAINT ASHE/CHAR/GASTONIA-NC	7	6	1	$ 51,530	880301	880311	C
04PMM057	MAINTENANCE (FBPOCT) BRYSON CITY-NC	1	1	0	$ 0	881101	831203	C
04PMM060	MAINT. SMTHFLD,WLSN,TRNTN,KNSTN,GRNVL-NC	3		3	$ 760	840509	840509	J
04PMM061	MAINT. GREENSBORO/BURLINGTON/ASHEBORO-NC	5		5	$ 31,936	841107	850318	I
04PMM062	MAINTENANCE (FB) WILKESBORO-NC	1	1	0	$ 0	881101	840104	C
04PMM066	MAINT GREENVILLE/ANDERSON-SC	3		3	$ 23,514	860901	860414	J
04PMM068	MAINTENANCE (POCT) CHATTANOOGA-TN	2		2	$ 15,258	860930	860710	J
04PMM069	MAINTENANCE (FBCT) COLUMBIA-TN	1		1	$ 0	831112	840126	I
04PMM070	MAINT COOKE/WIN/CARTH-TN	2		2	$ 13,818	860601	860612	J
04PMM076	MAINT MONTGOMERY/DOTHAN/CAMDEN/SELMA-AL	4		4	$ 0	860601	860721	J
04PMM078	MAINTENANCE (FBCT/CU) FT LAUDERDALE-FL	2		2	$ 0	840810	840822	I
04PMM079	MAINTENANCE (POCT-ANNEX) MIAMI-FL	5		5	$ 137,220	840407	840407	J
04PMM080	MAINTENANCE (RNAS) PERRINE-FL	4		4	$ 120,000	851203	860515	M
04PMM090	MAINTENANCE, THOMASVILLE/VALDOSTA-GA	2	2	0	$ 95,711	871130	871208	C
04PMM093	MAINTENANCE, LONDON-KY	1			$ 0	871115	871123	N
04PMM107	MAINTENANCE (FB) LAFAYETTE-TN	1		1	$ 15,800		831201	J
04PMM113	MAINTENANCE (POCT) W PALM BEACH-FL	4		4	$ 0	861030	861002	J
04PMM134	MAINTENANCE MARYVILLE/ATHENS-TN	1		1	$ 0	861001	861001	J
04PMM144	MAINTENANCE (FBCT/SSA) ANNISTON-AL	1		1	$ 5,141	840904	840904	I
04PMM147	MAINTENANCE, ST PETERSBURG-FL	3		3	$ 30,000	870901	870911	Q
04PMM148	MAINTENANCE (FB) MEMPHIS-TN	8	6	2	$ 56,350	880601	880708	C
04PMM149	MAINTENANCE, NASHVILLE-TN	9		9	$ 90,000	870701	870625	Q
04PMM153	MAINTENANCE, TALLAHASSEE-FL	2		2	$ 23,940	870830	870816	J
04PMM154	MAINT, OXFORD/TUPELO-MS	2			$ 0	880301	880211	N
04PMM201	MAINTENANCE (FB/POCT) JACKSONVILLE-FL	6		6	$ 0	880701	880802	J
05BMR001	MAIL OPERATIONS, CHICAGO-IL	2	2	0	$ 0	850830	851001	N
05FMP001	IMP (5-1) CHICAGO-IL	2		2	$ 0	831001	831001	J
05FMP002	IMP (5-2) CLEVELAND-OH	1		1	$ 0	831001	831001	J
05FMP003	IMP (5-4) INDIANAPOLIS-IN	1		1	$ 0	831001	831001	J
05FMP004	IMP (5-5) MILWAUKEE-WI	1		1	$ 0	831001	831001	J
05FMP005	IMP (5-6) DETROIT-MI	1		1	$ 0	831001	831001	J
05FMP006	IMP (5-7) COLUMBUS-OH	1		1	$ 0	831001	831001	J
05FMP007	IMP (5-8) CINCINNATI-OH	1		1	$ 0	831001	831001	J
05FMP008	IMP (5-9) LANSING-MI	1		1	$ 0	831001	831001	J
05FMP009	IMP (5-11) MINNEAPOLIS/ST. PAUL-MN	1		1	$ 0	831001	831001	J
05FMP010	IMP (5-12) DULUTH-MN	1		1	$ 0	831001	831001	J
05PCS007	CUSTODIAL (536 S CLARK) CHICAGO-IL	36		36	$ 469,743	850601	850701	J
05PCS008	CUSTODIAL (FBCT) MINNEAPOLIS-MN	13		13	$ 0	861001	861205	J
05PMM001	MAINTENANCE (FBS CLARK) CHICAGO-IL	11		11	$ 312,303	841001	840713	I
05PMM003	MAINTENANCE (FBCT) ST PAUL-MN	4	4	0	$ 0	880928	880928	C

I.D. NO.	ACTIVITY NAME/LOCATION	CURR EMP	MED EMP	FTE REDUCED	ANNUAL DOLLAR SAVINGS	MILESTONE 20 AWARD/TERMINATE ESTIMATED DATE	MILESTONE 20 AWARD/TERMINATE ACTUAL DATE	REASON CODE
05PMM008	MAINTENANCE (PARKING) CHICAGO-IL	1		1	$ 4,600	860930	851127	J
05PMM009	MAINTENANCE (FARC) CHICAGO-IL	2		2	$ 0	860930	860806	J
05PMM011	MAINTENANCE (FB) CHAMPAIGN-IL	1		1	$ 0		861002	J
05PMM012	MAINTENANCE (FBCT) SPRINGFIELD-IL	2	2	0	$ 0	881010	880929	C
05PMM019	MAINTENANCE (FB/CT) GRAND RAPIDS-MI	4	2	2	$ 60,000	880809	880809	N
05PMM020	MAINTENANCE (PARKING) DETROIT-MI	1		1	$ 14,454	831023	840401	J
05PMM021	MAINTENANCE (INSP CTR) DETROIT-MI	1		1	$ 2,263		850513	J
05PMM036	MAINTENANCE (FDA) CINCINNATI-OH	3		3	$ 58,705	841001	840903	I
05PMM039	MAINTENANCE (FB) COLUMBUS-OH	4		4	$ 66,066	841101	840814	I
05PMM041	MAINTENANCE (FB/CT) CLEVELAND-OH	3		3	$ 49,722	831116	831116	J
05PMM042	MAINTENANCE (FB) CANTON-OH	1		1	$ 9,566	841101	840822	I
05PMM049	MAINTENANCE (FBCT) DAYTON-OH	2		2	$ 0	861101	861001	J
05PMM050	MAINTENANCE (FOB/CTCU) TOLEDO-OH	6	4	2	$ 60,000	880818	880817	N
05PMM054	MAINTENANCE (FOB) PORT HURON-MI	1		1	$ 882	850701	850614	J
05PMM055	MAINTENANCE (FOB) SAGINAW-MI	4	2	2	$ 60,000	880810	880810	N
05PMM056	MAINTENANCE (SSA/FB) FLINT-MI	1	1	0	$ 0	890801	831201	C
05PMM059	MAINTENANCE (FB) LANSING-MI	1	1	0	$ 0	890701	840713	C
05PMM061	MAINTENANCE (FBCT) LAFAYETTE-IN	1		1	$ 0	880101	871211	J
05PMM063	MAINTENANCE (FBCT) ALTON-IL	1		1	$ 5,902	841101	840802	I
05PMM065	MAINTENANCE (FB/CT/PO) PEORIA-IL	2		2	$ 23,763	841001	840717	I
05PMM067	MAINTENANCE (FB/CT) MILWAUKEE-WI	7	7	0	$ 102,329	880215	871109	C
05PMM069	MAINT. (FBS/CT) COLUMBUS/ZANESVILLE-OH	7	7	0	$ 0	871018	880317	C
05PMM070	MAINTENANCE (POCT/FB) CINCINNATI-OH	18	12	6	$ 180,000	871030	880408	C
05PMM072	MAINTENANCE (FBCT) DETROIT-MI	8		8	$ 68,080	850701	850801	J
05PMM073	MAINTENANCE (EMO/JCK/PO) CHICAGO-IL	54	44	10	$ 473,714	861030	861201	C
05PMM074	MAINT (FBS) MINNEAPOLIS/FT SNELLING-MN	15	11	4	$ 327,052	880301	871207	C
05PMM075	MAINTENANCE (FBS/CT) INDIANAPOLIS-IN	9	7	2	$ 160,080	880301	871207	C
05PMM076	MAINTENANCE (AJC FOB) CLEVELAND-OH	19	13	6	$ 217,879	861030	861201	C
05PMM081	MAINTENANCE (RRB BLDG) CHICAGO-IL	4		4	$ 69,772	841001	840713	I
05PMM089	MAINTENANCE (FBCT) MADISON-WI	1		1	$ 2,126	861001	861001	J
05PMM090	MAINTENANCE (2 FED BLDGS) GARY-IN	2	2	0	$ 0	880929	880929	C
06BMR001	MAIL/MESSENGER SERVICE, KANSAS CITY-MO	3	2	1	$ 30,000	880828	880826	C
06FMP001	IMP (6-1) KANSAS CITY-MO	1		1	$ 0	831001	831001	J
06FMP002	IMP (6-7) DES MOINES-IA	1		1	$ 0	831001	831001	J
06PCS005	CUSTODIAL (210 WALNUT) DES MOINES-IA	21		21	$ 169,529	841012	841012	J
06PCS007	CUSTODIAL (FB 601 E 12TH) KANSAS CITY-MO	38		38	$ 380,000	880930	880101	J
06PCS010	CUSTODIAL (TRUMAN LIB), INDEPENDENCE-MO	11		11	$ 330,000	880330	871001	M
06PCS011	CUSTODIAL (9700 PAGE) OVERLAND-MO	52		52	$ 520,000	880730	871001	J
06PFS027	FULL SERVICE (420 BDWY) FULLERTON-NE	2		2	$ 20,633	850801	840202	J
06PMM001	MAINTENANCE (405 TUCKER) ST. LOUIS-MO	6	4	2	$ 60,000	850913	850812	C

I.D. NO.	ACTIVITY NAME/LOCATION	CURR EMP	MED EMP	FTE REDUCED	ANNUAL DOLLAR SAVINGS	MILESTONE 20 AWARD/TERMINATE ESTIMATED DATE	MILESTONE 20 AWARD/TERMINATE ACTUAL DATE	REASON CODE
06PMM002	MAINTENANCE (811 GRAND), KANSAS CITY-MO	4	2	1	$ 30,000	850814	851029	C
06PMM003	MAINT. (1500 E BANNISTER) KANSAS CITY-MO	10	9	0	$ 0	850814	851023	C
06PMM004	MAINT. (2306 E BANNISTER) KANSAS CITY-MO	9	6	2	$ 60,000	860114	860114	N
06PMM005	MAINT. (607 HARDESTY) KANSAS CITY-MO	5	3	2	$ 60,000	851129	851129	C
06PMM007	MAINTENANCE (1114 MARKET), ST. LOUIS-MO	5	3	1	$ 30,000	850927	851101	C
06PMM011	MAINTENANCE (131 E 4TH) DAVENPORT-IA	2	1	1	$ 30,000	860404	860407	C
06PMM012	MAINTENANCE (210 WALNUT) DES MOINES-IA	5	3	2	$ 60,000	860421	860313	C
06PMM013	MAINTENANCE (400 S CLINTON) IOWA CITY-IA	2	1	1	$ 30,000	851203	851203	C
06PMM014	MAINT. (HOOVER LIB/101 1ST) W. BRANCH-IA	2	1	1	$ 30,000	851015	850822	C
06PMM015	MAINTENANCE (215 N 17TH) OMAHA-NE	6	4	2	$ 60,000	851231	860106	C
06PMM016	MAINT. (100 CENTENNIAL MALL) LINCOLN-NE	5	3	2	$ 60,000	860110	860113	C
06PMM017	MAINT. (330 SHAWNEE) LEAVENWORTH-KS	1	1	0	$ 0	850814	850807	C
06PMM020	MAINT. (300 E 3RD) N. PLATTE-NE	2	1	1	$ 30,000	860131	860131	C
06PMM021	MAINT. (EISENHOWER LIB) ABILENE-KS	3	2	1	$ 30,000	860321	860321	C
06PMM022	MAINT. (101 1ST) CEDAR RAPIDS-IA	1	1	0	$ 0	851015	850815	C
06PMM025	MAINTENANCE (9700 PAGE) OVERLAND-MO	17	12	4	$ 120,000	851227	851227	C
06PMM029	MAINTENANCE (608 E CHERRY) COLUMBIA-MO	1	1	0	$ 0	851213	851213	C
06PMM030	MAINT. (TRUMAN LIB) INDEPENDENCE-MO	2	1	1	$ 30,000	000000	851011	C
06PMM039	MAINT. (1709 JACKSON) OMAHA-NE	1	1	0	$ 0	851115	850827	C
06PMM040	MAINTENANCE (911 WALNUT), KANSAS CITY-MO	3		3	$ 0	861215	861219	Q
06PMM041	MAINT. (106 S 15TH) OMAHA-NE	2	1	1	$ 30,000	851114	850912	C
06PMM042	MAINT. (601 E. 12TH) KANSAS CITY-MO	16	7	3	$ 90,000	860114	851105	C
06PMM043	MAINT. (F6CT/FC/SSA/PAULINE) TOPEKA-KS	3	2	1	$ 30,000	851002	860115	C
06PMM047	MAINTENANCE (401 N MARKET) WICHITA-KS	2	1	1	$ 30,000	850913	850715	C
06PMM201	MAINT. (TRUMAN LIB) INDEPENDENCE-MO	1		1	$ 30,000		871001	M
07FMP001	IMP (0701) DALLAS/FT. WORTH-TX	6		6	$ 50,679	831001	831001	J
07FMP002	IMP (0702) NEW ORLEANS-LA	2		2	$ 0	831001	831001	J
07FMP003	IMP (0703) HOUSTON/GALVESTON-TX	6		6	$ 20,382	831001	831001	J
07FMP004	IMP (0704) OKLAHOMA CITY-OK	4		4	$ 43,290	831001	831001	J
07FMP005	IMP (0705) LITTLE ROCK-AR	3		3	$ 25,247	831001	831001	J
07FMP006	IMP (0706) SAN ANTONIO-TX	3		3	$ 0	831001	831001	J
07FMP007	IMP (0707) BATON ROUGE-LA	1		1	$ 0	831001	831001	J
07FMP008	IMP (0710) EL PASO-TX	1		1	$ 0	831001	831001	J
07FMP009	IMP (0711) TULSA/MUSKOGEE-OK	1		1	$ 0	831001	831001	J
07FMP010	IMP (0712) ALBUQUERQUE-NM	4		4	$ 37,366	831001	831001	J
07FMP011	IMP (0713) SANTA FE-NM	2		2	$ 0	831001	831001	J
07FMP013	IMP (0715) GALLUP-NM	5		5	$ 13,306	831001	831001	J
07FMP014	IMP (0716) LAS CRUCES-NM	3		3	$ 17,750	831001	831001	J
07PCS004	CUSTODIAL (POCT) FORT SMITH-AR	7		7	$ 18,818	870505	870505	J
07PCS012	CUSTODIAL (FBCT) MUSKOGEE-OK	7		7	$ 133,279	850506	850506	J

I.D. NO.	ACTIVITY NAME/LOCATION	CURR EMP	MEO EMP	FTE REDUCED	ANNUAL DOLLAR SAVINGS	MILESTONE 20 AWARD/TERMINATE ESTIMATED DATE	MILESTONE 20 AWARD/TERMINATE ACTUAL DATE	REASON CODE
07PCS014	CUSTODIAL (BROOKS FB) BEAUMONT-TX	13		13	$ 130,000	850404	850601	J
07PCS015	CUSTODIAL (CT) EL PASO-TX	7		7	$ 125,067	840930	840914	J
07PMM007	MAINT (5 BLDGS) ALBUQUERQUE-NM	8		8	$ 221,804	860830	860919	J
07PMM008	MAINTENANCE (7 BLDGS) SANTA FE-NM	4		4	$ 14,783	870109	870109	Q
07PMM009	MAINTENANCE (2 BLDGS) ALBUQUERQUE-NM	1		1	$ 35,704	840303	840301	J
07PMM022	MAINTENANCE (FB/FBCT) DALLAS-TX	10		10	$ 179,105	860830	860916	J
07PMM023	MAINTENANCE (FBCT/SSA) BATON ROUGE-LA	2		2	$ 18,078	860820	860827	J
07PMM026	MAINTENANCE (POCT/SSA) HELENA-AR	2		2	$ 3,100	870111	861010	J
07PMM027	MAINTENANCE (POCT/SSA) HOT SPRINGS-AR	2		2	$ 15,173	880926	880926	J
07PMM029	MAINTENANCE (POCT) ALEXANDRIA-LA	1		1	$ 2,550	860813	860917	J
07PMM030	MAINTENANCE (FBPO) HOUMA-LA	1		1	$ 5,487	860730	860908	J
07PMM031	MAINTENANCE (FBPO) LAFAYETTE-LA	1		1	$ 6,400	860813	860804	J
07PMM033	MAINTENANCE (FBPOCT) OPELOUSAS-LA	1		1	$ 7,321	860330	860402	J
07PMM034	MAINTENANCE (FB) GALLUP-NM	2		2	$ 0	870930	870901	J
07PMM039	MAINTENANCE (POCT) VICTORIA-TX	3		3	$ 9,870	870930	870909	J
07PMM043	MAINTENANCE (FBPOCT) MIDLAND-TX	2		2	$ 4,457	871001	871106	Q
07PMM044	MAINTENANCE (FBPO) MCKINNEY-TX	1	1	0	$ 0	880730	880629	N
07PMM051	MAINTENANCE (FB) BLYTHEVILLE-AR	1		1	$ 0	880921	880923	J
07PMM057	MAINTENANCE (FBCT) JONESBORO-AR	1		1	$ 10,150	860730	860905	J
07PMM060	MAINTENANCE (2 BLDGS) RUSSELLVILLE-AR	1		1	$ 0	860930	860818	J
07PMM065	MAINTENANCE (FBCT) CHICKASHA-OK	1		1	$ 9,090	850805	850805	J
07PMM072	MAINTENANCE (FB) CUERO-TX	1		1	$ 4,366	840301	840401	J
07PMM073	MAINTENANCE, FDA (TX2032), DALLAS-TX	1		1	$ 127	870930	870608	J
07PMM085	MAINTENANCE (FBCT) LUBBOCK-TX	3		3	$ 9,924	871001	871106	Q
07PMM098	MAINTENANCE (SSA ANNEX) ALBUQUERQUE-NM	1		1	$ 48,887	840301	840301	J
07PMM109	MAINTENANCE (2 BLDGS) HOUSTON-TX	12		12	$ 0	880930	880815	Q
08FMP001	NAT'L FLEET MGMT DIV, DENVER-CO	13	11	2	$ 124,446	890502	840502	C
08FMP002	IMP (8-3) SALT LAKE CITY-UT	6		6	$ 28,108	840601	840601	J
08FMP003	IMP (8-4) OGDEN-UT	4		4	$ 57,321	840601	840601	J
08FMP004	IMP (8-6) GRAND JUNCTION-CO	9		9	$ 101,607	840601	840601	J
08FMP005	IMP (8-7) CASPER-WY	4		4	$ 40,000	870701	870601	J
08FMP006	IMP (8-18) BILLINGS-MT	5		5	$ 47,424	840601	840601	J
08FMP007	IMP (8-19) HELENA-MT	4		4	$ 43,870	840601	840601	J
08FMP008	IMP (8-20) BISMARCK-ND	6		6	$ 0	840601	840601	J
08PCS002	CUSTODIAL (FBPOCT) MISSOULA-MT	10		10	$ 80,432	870618	870618	J
08PCS013	CUSTODIAL (FBCT) SIOUX FALLS-SD	5		5	$ 49,962	840701	840626	J
08PCS015	CUSTODIAL(FBCT/MP)BILLINGS-MT	14	7	7	$ 140,000	841026	841026	C
08PFS001	FULL SERVICE BORDER STATIONS (2)-ND	2		2	$ 0	851118	851118	J
08PFS002	FULL SERVICE (FB) ST GEORGE-UT	1		1	$ 10,000	871101	880210	J
08PFS006	FULL SERVICE (BS)CHIEF 9TN/PIEGAN-MT	1		1	$ 32,104	840924	840807	J

I.D. NO.	ACTIVITY NAME/LOCATION	CURR EMP	MED EMP	FTE REDUCED	ANNUAL DOLLAR SAVINGS	MILESTONE 20 AWARD/TERMINATE ESTIMATED DATE	MILESTONE 20 AWARD/TERMINATE ACTUAL DATE	REASON CODE
08PMM013	MAINT. (DFC INCL BLDG 47) DENVER-CO	67	65	67	$ 587,556	871001	880115	I
08PMM014	MAINTENANCE (FBCT) GRD JUNCTION-CO	1		1	$ 0	880401	880406	J
08PMM018	MAINTENANCE (FB/PO/CH) MISSOULA-MT	3		3	$ 30,540	871101	871215	J
08PMM019	MAINTENANCE (FBCT/MP) BILLINGS-MT	3		3	$ 0	880101	880107	J
08PMM024	MAINTENANCE (FBCT) HELENA-MT	2		2	$ 37,845	840701	840531	J
08PMM025	MAINTENANCE (FB) OGDEN-UT	3		3	$ 30,000	850201	850201	Q
08PMM037	MAINT (ADMIN. BLDG. & FB) SLC-UT	6		6	$ 51,284	880430	880916	Q
09BMR001	MAIL SERVICE, SAN FRANCISCO-CA	3			$ 0	870115	870115	N
09FMP001	IMP (0901) SAN FRANCISCO-CA	3		3	$ 0	831001	831001	J
09FMP002	IMP (0902) LOS ANGELES-CA	5		5	$ 0	831001	831001	J
09FMP003	IMP (0903) LAS VEGAS-NV	1		1	$ 0	831001	831001	J
09FMP004	IMP (0904) REDDING-CA	2		2	$ 0	831001	831001	J
09FMP005	IMP (0905) SAN DIEGO-CA	1		1	$ 0	831001	831001	J
09FMP006	IMP (0906) OAKLAND-CA	1		1	$ 0	831001	831001	J
09FMP007	IMP (0907) SACRAMENTO-CA	1		1	$ 0	831001	831001	J
09FMP008	IMP (0908) RENO-NV	1		1	$ 0	831001	831001	J
09FMP009	IMP (0909) HONOLULU-HI	1		1	$ 0	831001	831001	J
09FMP010	IMP (0910) REDWOOD CITY/SAN JOSE-CA	1		1	$ 0	831001	831001	J
09FMP011	IMP (0912) RIVERSIDE-CA	2		2	$ 0	831001	831001	J
09FMP012	IMP (0913) PHOENIX-AZ	1		1	$ 0	831001	831001	J
09FMP013	IMP (0914) TUCSON-AZ	2		2	$ 6,700	831001	831001	J
09FMP014	IMP (0915) HOLBROOK-AZ	1		1	$ 0	831001	831001	J
09FMP015	IMP (0917) YUMA-AZ	2		2	$ 0	831001	831001	J
09FMP016	IMP (0918) SANTA MARIA-CA	7		7	$ 105,467	831001	831001	J
09PCS002	CUSTODIAL (CT) TUCSON-AZ	5		5	$ 36,197	840928	841022	J
09PCS003	CUSTODIAL (O ST) FRESNO-CA	7		7	$ 3,377	841123	841207	J
09PCS005	CUSTODIAL (FB) SANTA ROSA-CA	1		1	$ 30,000	870602	870714	M
09PCS010	CUSTODIAL (CT OF APPEALS) SAN FRANCISCO-	21		21	$ 26,270	850301	850401	J
09PCS016	CUSTODIAL (FBCT) SAN FRANCISCO-CA	55				850401	850401	M
09PCS038	CUSTODIAL (CAP MALL) SACRAMENTO-CA	10		10	$ 100,000	841231	850102	J
09PFS026	FULL SERVICE (BS) ANDRADE-CA	1	1	0	$ 0	860831	860722	C
09PFS059	FULL SERVICE (FB) VALLEJO-CA	1		1	$ 0	850724	850724	J
09PFS062	FULL SERVICE (FB) MERCED & VISALIA - CA	2	2	0	$ 0	860831	860828	C
09PFS063	FULL SERVICE LUKEVILLE-AZ	1		1	$ 21,580	870701	870901	I
09PMM011	MAINTENANCE (WILSHIRE BLVD) L A-CA	15	6	9	$ 270,000	831223	831223	C
09PMM012	MAINTENANCE (FSC) BELL-CA	6	5	1	$ 30,000	831031	831031	C
09PMM017	MAINT DOUGLAS/NACO-AZ	1	1	0	$ 0	870402	870227	C
09PMM031	MAINTENANCE (FB) BAKERSFIELD-CA	1		1	$ 0	870320	870320	J
09PMM032	MAINTENANCE (STEAD BLDG) BERKELEY -CA	1		1	$ 0	850901	850901	J
09PMM033	MAINTENANCE (BS'S) CALEXICO-CA	3	3	0	$ 0	871001	871001	N

I.D. NO.	ACTIVITY NAME/LOCATION	CURR EMP	MED EMP	FTE REDUCED	ANNUAL DOLLAR SAVINGS	MILESTONE 20 AWARD/TERMINATE ESTIMATED DATE	MILESTONE 20 AWARD/TERMINATE ACTUAL DATE	REASON CODE
09PMM038	MAINTENANCE (PICO/6TH) LOS ANGELES-CA	2		2	$ 60,000	860930	860924	M
09PMM046	MAINT. (FRC) SAN BRUNO/SO. SF-CA	3		3	$ 4,201	841214	841218	I
09PMM048	MAINTENANCE (UN PLAZA) SAN FRANCISCO-CA	2	0	2	$ 20,000	850901	850904	Q
09PMM071	MAINTENANCE (FB/MP) HONOLULU-HI	10	8	2	$ 60,000	871001	871001	N
09PMM076	MAINTENANCE HAWTHORNE & VAN NUYS-CA	9		9	$ 90,000	870601	870508	Q
09PMM078	PAINT (APPR/CUSTM) SAN FRANCISCO-CA	6		6	$ 60,000	880930	880928	Q
09PMM082	MAINT (FFBPO & BIBLE BLG) LAS VEGAS-NV	6	6	0	$ 0	880801	880805	Q
09PMM083	MAINT 300 LOS ANGELES ST/LOS ANGELES-CA	9		9	$ 90,000	870601	870623	Q
09PMM084	MAINTENANCE (FBPO/FBCT) PHOENIX-AZ	7	7	0	$ 0	880930	880805	C
09PMM088	MAINT 9055 & I ST SACRAMENTO-CA	7	9	-2	$ 0	880930	880805	C
09PMM206	MAINTENANCE (FB & CT) TUCSON-AZ	7	6	1	$ 30,000	880930	880805	C
09PRG015	GROUNDS (FSC) ALAMEDA-CA	4		4	$ 29,242	840802	840802	J
09PRG037	GROUNDS (FBCT) RENO-NV	1		1	$ 10,000	850601	850601	J
10BMR001	MAIL/MESSENGER SERVICE, AUBURN-WA	1			$ 0	870930	870115	N
10FMP001	IMP (10-1) SEATTLE-WA	9		9	$ 0	831001	831001	J
10FMP002	FMC MAINT , PORTLAND/VANCOUVER-OR	9	11	-2	$ 0	860708	860814	C
10FMP003	IMP (10-3) SPOKANE-WA	4		4	$ 0	831001	831001	J
10FMP004	FMC MAINT (1005) BOISE-ID	9		9	$ 0	861231	860930	J
10FMP005	FMC MAINT (1006) ANCHORAGE-AK	11		11	$ 340,189	861231	860930	J
10FMP006	IMP (10-8) MEDFORD-OR	4		4	$ 0	831001	831001	J
10PCS001	CUSTODIAL (NEW CT) PORTLAND-OR	11		11	$ 41,925	850815	850815	J
10PCS003	CUSTODIAL (CT) SPOKANE-WA	16		16	$ 42,606	850401	850402	J
10PCS004	CUSTODIAL (CT) SEATTLE - WA	11		11	$ 37,490	850815	850815	J
10PCS008	CUSTODIAL (FB) ANCHORAGE-AK	5		5	$ 150,000	850101	850101	M
10PCS021	CUSTODIAL (FOB), COEUR D'ALENE-ID	1		1	$ 22,385		840416	J
10PCS022	CUSTODIAL (CU) PORTLAND-OR	7		7	$ 85,990		840831	J
10PCS023	CUSTODIAL (FED WHSE), PORTLAND-OR	1		1	$ 12,807		840416	J
10PCS024	CUSTODIAL (PIONEER CTHS), PORTLAND-OR	3		3	$ 43,329		840416	J
10PCS027	CUSTODIAL (FB) EVERETT-WA	1		1	$ 20,521		840601	J
10PCS028	CUSTODIAL (FB) VANCOUVER-WA	1		1	$ 16,685		840801	J
10PCS029	CUSTODIAL (FRC) SEATTLE-WA	3		3	$ 41,019		840531	J
10PCS032	CUSTODIAL (FBPOCT) RICHLAND-WA	10		10	$ 278,348	851001	851001	J
10PFS005	FULL SERVICE (FB) IDAHO FALLS-ID	2		2	$ 11,750	850815	850815	J
10PFS021	FULL SERVICE (BS) LAURIER-WA	1	1	0	$ 0	880930	880701	C
10PFS024	FULL SERVICE (BS) METALINE FALLS-WA	1		1	$ 37,000	871001	871001	J
10PMM001	MAINTENANCE (4 BLDGS) SEATTLE GROUP-WA	5		5	$ 0	840206	870406	Q
10PMM002	MAINTENANCE (FED CTR) AUBURN-WA	10	9	1	$ 30,000	880701	880711	N
10PMM004	MAINTENANCE (11 BLDGS) PORTLAND-OR	11	11	0	$ 0	840312	840119	C
10PMM024	MAINTENANCE (FBCT) BOISE-ID	5	5	0	$ 0	871201	871001	N
10PMM035	MAINT. (4 BLDGS) BLAINE/BILLINGHAM-WA	4	5	-1	$ 0	880901	880711	C
10PMM040	MAINTENANCE (FBCT), YAKIMA-WA	1		0	$ 0	831019	831019	C

I.D. NO.	ACTIVITY NAME/LOCATION	CURR EMP	MEO EMP	FTE REDUCED	ANNUAL DOLLAR SAVINGS	MILESTONE 20 AWARD/TERMINATE ESTIMATED DATE	MILESTONE 20 AWARD/TERMINATE ACTUAL DATE	REASON CODE
10PMM041	MAINTENANCE(FED CTR) MOSES LAKE-WA	3		3	$ 90,000	880930	870613	M
10PMM045	MAINTENANCE (FB) EVERETT-WA	1	1	0	$ 0	000000	840608	C
10PMM047	MAINTENANCE (FCS) SEATTLE-WA	6	7	-1	$ 0	880701	880527	N
11BMR001	MAIL/MESSENGER SERVICE, WASHINGTON-DC	15		15	$ 108,091	870915	870827	I
11FMP001	IMP, WASHINGTON-DC	8		8	$ 0	831001	831001	J
11KCC002	BURROUGHS COMPUTER CENTER, WASHINGTON-DC	23	16	7	$ 210,000	860430	860306	N
11PCS014	CUSTODIAL (BLDGS 159,159E,160) ANACOSTIA	29		29	$ 317,146	850515	850515	J
11PFS001	FULL SERVICE CENTRAL SUPPORT FO-DC	183	106	77	$ 2,310,000	861215	861229	N
11PMM007	MAINT., ANACOSTIA F.O., WASHINGTON-DC	22	16	6	$ 180,000	840927	840927	C
11PMM009	MAINT., SUITLAND F.O., WASHINGTON-DC	39	29	10	$ 300,000	851021	850901	C
11PMM020	MAINTENANCE,FORRESTAL FO WASHINGTON-DC	30	30	0		861001	850102	D
11PMM021	MAINT., INTERIOR F.O., WASHINGTON-DC	25	25	0		861001	841130	D
11PMM024	MAINTENANCE, TRIANGLE F.O.-DC	61	39	61	$ 1,547,929	880418	880428	I
11PMM029	MAINTENANCE MOTO (SUITLAND PLANT)-DC	16	14	2	$ 60,000	871001	880120	C

TOTAL DOLLAR SAVINGS (ANNUALIZED) = $48962731
TOTAL NUMBER OF EMPLOYEES STUDIED = 3700
TOTAL MEO SAVINGS - FTE = 261
NUMBER OF ACTIVITIES= 410
TOTAL FTE REDUCED = 2665

REASON CODE (STATUS) KEY:

C = GOVERNMENT IS PROVIDING THE SERVICE BASED UPON A COMPLETED A-76 COST COMPARISON STUDY.
D = GOVERNMENT IS PROVIDING THE SERVICE BASED UPON THE COMPLETION OF A NEW REQUIREMENT OR EXPANSION COST COMPARISON.
I = BEING PERFORMED BY CONTRACT AS A RESULT OF AN A-76 COST COMPARISON.
J = DIRECT CONVERSION TO CONTRACT WITHOUT COMPLETION OF AN A-76 COST COMPARISON.
M = ACTIVITY ABOLISHED FOR ECONOMIC REASONS.
N = RETAINED IN-HOUSE. NO SATISFACTORY COMMERCIAL SOURCE CAPABLE OR AVAILABLE.
O = CONSOLIDATED FACILITIES MANAGEMENT (CFM) CONTRACT.

RELOCATION

QUESTION. The fiscal year 1990 request for agency relocation expenses is $10 million, an increase of $6 million above the fiscal year 1989 appropriation level of $4 million. What is the basis for this substantial funding increase?

ANSWER. Currently valuable Government-owned property exists that is now underutilized but which has not been released for disposal by the landholding agencies. This is often due to the high costs of relocating personnel and equipment, and of acquiring new facilities.

For 1988, approved allocations to other agencies for relocation purposes amounted to $4.1 million with an average benefit/cost ratio of greater than 6:1. Therefore, we feel the additional increase in relocation funds will be an incentive to landholding agencies to release valuable property. Also, the primary consideration will be the economic advantage to the Federal Government, i.e., the estimated proceeds from sales versus relocation costs.

FORMER PRESIDENTS

QUESTION: What would be the impact of "freezing" fiscal year 1990 appropriations for the "Allowances and Office Staff for Former Presidents" account at the fiscal year 1989 funding level?

ANSWER: There would be a severe impact to the Allowances and Office Staff for Former Presidents account in fiscal year 1990 if funded at the fiscal year 1989 funding level considering that over 96% of the requested funding increase in 1990 is for the full year annualization cost of establishing a new office for former President Reagan. If the increased cost of providing for former President Reagan had to be diverted from the amounts previously budgeted for Presidents Nixon, Ford and Carter; such an action would result in substantial reductions to the level of office support provided to the former Presidents.

PRESIDENTIAL TRANSITION

QUESTION: A total of $5 million is appropriated to the GSA for fiscal year 1989 for Presidential Transition Expenses. This amount was reduced under P.L. 100-458 to $4,750,000. Do you expect the entire amount available for Presidential Transition Expenses to be needed? If not, what amount of these funds do you estimate will remain unobligated at the end of the fiscal year?

ANSWER: We do not expect that the entire amount available for Presidential Transition expenses will be needed. Approximately $1,000,000 of the $3,500,000 for

the incoming administration will remain unobligated at the end of the fiscal year. Although the final costs are not in for the outgoing Administration, it is expected that substantially all of the $1,250,000 available will be required.

PRESIDENT FORD REDUCTION

QUESTION: The budget submission indicates that the fiscal year 1990 request for Allowances and Office Staff for Former Presidents reflects a reduction of $2,900 from authorized levels in the office staff allowance for President Ford and that this reduction implements agreements concerning GAO Decision B-218989 dated January 27, 1986. What does the GAO Decision referred to involve and what specific agreements have been reached on that decision?

ANSWER: The GAO Decision B-218989 was in response to a letter from GSA requesting a waiver of overpayment in the Allowances and Office Staff fiscal year 1980 appropriation for former President Ford. In fiscal year 1980 President Ford should have received payment for staff support at the rate of $150,000 for the period October 1, 1979, to March 30, 1980, and at the rate of $96,000 for the period April 1, 1980, to September 30, 1980. The resulting calculation is a monetary ceiling on staff support payments for fiscal year 1980 of $123,000. Thus, since President Ford actually received $146,048 in payments for fiscal year 1980, the result was an overpayment of $23,048.

GAO stated that GSA may not terminate collection of a dept arising from the payment of salaries in excess of the statutory maximum to the staff of former President Ford. GAO also directed GSA to proceed with collection of the debt arising from the payment of salaries in excess of the statutory maximum to the staff of for former President Ford. In addition, GAO informed GSA that they may offset the debt against future payments made to former President Ford's staff as opposed to seeking repayment.

The agreement reached and implemented by all respective parties was an administrative offset against former President Ford's annual staff salary limitation for eight years. This consists of an annual reduction of $2,900 for fiscal year 1987 through 1993 and a reduction of $2,748 in fiscal year 1994 to former President Ford's annual staff salary limitation. The total administrative offset is $23,048 which recoups the full amount of the overpayment in fiscal year 1980.

Questions Submitted by Senator D'Amato

INDUSTRIAL FUNDING

Question: Has FSS determined if there have been changes in its customer base and the number of line items purchased under industrial funding? If so, have the changes been negative or positive? For example, are the top 10 customers the same now as they were prior to industrial funding going into effect?

Answer: The FSS customer base has remained stable. Despite a spending moratorium imposed by the Department of Defense during the summer months, revenue flow was at the projected level and the forecasts and cost recovery assumptions proved sound.

Question: Has FSS performed any tests to demonstrate that it is as competitive as private sector sources of supply?

Answer: During the spring of 1988, FSS conducted some market basket surveys in selected common use commodity areas. The results were used as part of our customer communications concerning the implementation of full cost recovery (industrial funding). We believe that customer behavior, since implementation, has served to demonstrate that even with the greater latitude to utilize alternative sources agencies find the service and price afforded by FSS programs to be highly competitive and attractive.

Question: Are all operating costs -- including cost of services provided by other GSA units -- factored into the surcharge calculation?

Answer: Only the operating expenses of the Federal Supply Service (FSS) are factored into the overall cost and pricing decisions (surcharge). The other GSA units (i.e., Finance, General Counsel, and Personnel) are provided funding either through direct appropriation or revolving funds, and would be therefore inappropriate to include under the FSS industrial funding surcharge.

Question: For fiscal year 1988 the industrial funding portion of the General Supply Fund had an operating loss of about $23 million. As a result, will the surcharge be raised to offset this loss and will a contingency amount be factored into the surcharge cost

calculation in order to offset any future losses? What is the profit/loss projection for fiscal year 1989?

Answer: The $23 million operating loss experienced in FY 1988 in the Supply Operations ledger of the fund was primarily attributable to three factors. First, the midyear implementation of the legislation wherein FSS had to carry forward two months of operating expenses which were not subject to surcharge recovery. (Lapse in implementation of surcharge from December to February 1). Second, the DoD purchasing moratorium which reduced incoming business by 20 percent. Third, adjustments to the General Supply Fund financial statements as a result of GAO audit findings. The Fleet Management ledger of the fund generated profits of $28 million in FY 1988 which resulted in an overall FY 1988 profit in the fund of $5 million.

Insofar as pricing in FY 1989, the overall surcharge remained relatively unchanged since we are not encumbering the fund with the same cost anomalies as in FY 1988 (cost carry forward, moratorium, etc.). We do however, in our normal pricing and surcharge development, make assumptions or allowances for a degree of unforeseen contingencies so as not to draw down on the capitalization of the fund. Our current forecast for FY 1989 for the fund is a profit of $25 million or one percent of the total volume to offset prior year losses.

Question: Are the costs to modernize and automate the FSS depots included in the surcharge calculation?

Answer: The costs of facility modernization are built into the overall pricing structure. These costs are predominately capitalized costs and are therefore depreciated over the useful life of the assets.

FEDERAL MAIL MANAGEMENT

Background:
According to the U.S. Postal Service, federal postage costs exceeded $1 billion in fiscal year 1988. Under the Federal Records Management Amendments of 1976 (Public Law 94-575), GSA is responsible for promoting economy and efficiency in mail management; conducting mail management studies; and reporting to the Congress the results of these activities, including evaluations of responses by federal agencies to any recommendations resulting from GSA's studies or inspections. GSA has stated that a 15-percent reduction in Federal postage costs is a reasonable goal.

QUESTIONS:

In light of GSA's requirements under the law, and considering GSA's stated objective of a 15-percent cost reduction, please answer the following questions:

QUESTION: To what extent has GSA attained its stated goal of reducing the federal government's $1 billion postage budget by 15 percent or $150 million? Please provide a detailed explanation of its accomplishments toward this goal.

ANSWER: The genesis for a Governmentwide goal of reducing postage costs by 15% occurred in the '70s. At that time, GSA studies showed that a large amount of "flat" mail contained just a few pieces of foldable material that could be sent in less costly lettersize envelopes. The postage savings of converting to lettersize envelopes plus other economies would, at that time, have saved about 15% of the Federal payments to the U.S. Postal Service.

In 1975, one General Accounting Office report restated this savings target. In 1983, the President's Private Sector Survey on Cost Control (Grace Commission) reiterated that the goal was possible.

Because of these factors (and validating studies ongoing since 1975), GSA has felt that a Governmentwide saving of at least 15% was always possible in any one year.

But in any one year the factors change -- postage rates go up, postage rebates change (e.g., ZIP+4 "discounts"), agency volumes change, agency management interests change, mail expertise changes, etc. In other words, GSA is unable to specify in advance what a particular agency needs to do to reduce mailing costs by 15%. Instead, GSA publishes savings methodologies, challenges agencies to apply them, and hopes that the end-year cost/volume results show a reduction.

It is important to remember that a percentage change depends upon the base used. When the base can vary from year to year, any forecasts or targets also vary. Large reductions usually occur only when there has been no previous "belt tightening;" the savings potential for a well-run operation will be a much lower percentage than it would be for an average operation.

This is why our 1986 mail cost reduction initiative did not dwell on specific tasks for specific agencies to achieve specific amounts of savings. Instead we challenged all agencies to try a GSA shopping list of savings techniques to create cost reductions. We did not ask them to make specific postage reductions. We did ask them to reduce fiscal year 1986 mailing costs by an

amount equal to 15% of their fiscal year 1985 postage costs. Postage costs are usually less than half of an agency's expenditure for mailing -- the other costs are for nonpostal carriers and for internal mail distribution.

The 16 agencies that accepted our challenge saved over $76 million dollars (about 16.5% of their combined postal budgets) in fiscal year 1986. These savings are explained in detail in a GSA report dated September 1988, subtitled "How 16 Federal Agencies Saved Over $76 Million in Mailing Costs."

QUESTION: What specific actions did GSA take to reduce federal postage costs in FY 1988? What results were achieved?

ANSWER: We made no huge step in fiscal year 1988 to lead Federal agencies to make large reductions in their mailing costs, because we had just finished the large initiative mentioned above that saved 16 cooperative agencies over $76 million. We hoped that the 16 agencies would continue and improve the cost reductions they had made in the previous period.

Our fiscal year 1988 effort covered the remaining Federal agencies. We consolidated all the results from our savings initiative and published the September 1988 report, which was aimed at promoting comparable savings in other agencies. Our theory was to let success sell itself. We distributed this report to all known agency mail managers and to all the Designated Senior Officials for Information Resources Management and publicized it in the trade press. Demand was so great, we had to reprint it to fill requests.

In fiscal year 1988, we also began developing a mail management guide that emphasized cost reduction through improved management actions. This guide is now at the printer and will be distributed soon.

Since the early '70s, GSA has promoted mail economies through various educational programs. This ongoing effort is best seen in the Mail Management and Mail Operations courses taught in our Training Center. The Center widely advertises its course work, and in 1988 conducted two Mail Management and three Mail Operation workshops. The Center is currently upgrading the syllabus for the mail management courses.

Since our fiscal year 1988 efforts were primarily in the form of guidance and training, we have no data on the achieved results.

QUESTION: What are GSA's goals and plans for future work in mail management? Please describe in terms of specific programs and budget allocations.

ANSWER: At least two staff years are planned in fiscal year 1989 for the following:

a. Publicize and distribute the mail management guide that is now being printed.

b. Review agencies' records management programs as part of the Information Resources Procurement and Management Review Program to ensure tnat they address mail management.

c. Conduct a major project on Electronic Data Interchange that will result in guidance and techniques that we hope will help reduce agency mailing costs.

d. Continue to publicize the report, "How 16 Federal Agencies Saved Over $76 Million in Mailing Costs," by participating in a panel discussion at a conference on mail management.

e. Continue to provide advice and guidance on mail management problems when requested by Federal agency personnel.

f. Continue to conduct and improve the mail management and mail operations workshops at the GSA Training Center.

Question Submitted by Senator Hatfield

Pioneer Courthouse Portland, OR

QUESTION: It is my understanding that GSA intends to refurbish the deteriorating exterior sandstone finish and the fence surrounding the Pioneer Courthouse in Portland, Oregon. Please provide me with the plans for this work and the schedule which you hope to follow to accomplish this project. Also please provide me with the cost estimates for this project.

ANSWER: GSA does intend to refurbish the deteriorating exterior sandstone finish and fence surrounding the courthouse. A project to repair the perimeter wall supporting the fence and portions of the sandstone building exterior is now being designed, and is planned for award in October, 1989 at an estimated cost of $450,000. A project to repair and paint all exterior windows is scheduled for award in August, 1989 at an estimated cost of $25,000.

An Architectural/Engineering firm has just completed an engineering evaluation of this building and will be providing a final report with recommended actions for any additional work necessary. If any further repairs are necessary, they will be scheduled and budgeted.

OFFICE OF THE INSPECTOR GENERAL

STATEMENT OF WILLIAM R. BARTON, INSPECTOR GENERAL

ACCOMPANIED BY SUSAN M. GAFFNEY, DEPUTY INSPECTOR GENERAL

INTRODUCTION OF WITNESSES

Senator DECONCINI. Our last panel this morning will be the Office of the Inspector General of the General Service Administration. We are pleased to have Mr. William Barton, Inspector General, and Ms. Susan Gaffney, Deputy Inspector General on behalf of the Office. We welcome both of you.

Mr. Barton, if you want to proceed and summarize your testimony, and we will put the full statement in.

Mr. BARTON. Mr. Chairman and members of the subcommittee, thank you for providing me with the opportunity to present the fiscal year 1990 budget request for the Office of Inspector General, General Services Administration. The appropriation request for the Office of Inspector General totals $26,500,000 and fully funds 425 workyears.

The fiscal year 1990 Office of Inspector General budget request is an extension of the fiscal policies which have contributed to our success over the last few years. It provides us with the ability to maintain a highly skilled work force capable of responding to changing conditions and demands. It provides us with the ability to continue to implement advanced ADP technology in support of the IG operations and, at the same time, provides us with a vehicle by which to avoid the pitfalls of short-term ADP procurement. It provides us with an Honor Awards Program for recognizing employees of other Federal agencies and entities, as well as nonfederally employed individuals and organizations, who significantly contribute their efforts and energies in support of the OIG.

Mr. Chairman, I feel secure in stating that since the first time I appeared here, nearly 3 years ago, the Office of Inspector General at the General Services Administration has successfully turned the corner and is heading in the right direction. Our morale is high, our overall productivity is up, and the results of our work are clearly demonstrated by the increased savings which we have generated over the last 3 years. Approval of the Office of Inspector General fiscal year 1990 budget request at $26.5 million will help ensure the continuation of these results in the future.

I also wish to add my appreciation for the strong support that you and this committee have provided to our Office. The success of our programs over the past 3 years is a direct result of that support, and we certainly thank you for it.

PREPARED STATEMENT

Mr. Chairman, this concludes my opening statement. I will be pleased to respond to any questions.

[The statement follows:]

STATEMENT OF WILLIAM R. BARTON

Mr. Chairman and members of the subcommittee: Thank you for providing me with the opportunity to present the fiscal year 1990 budget request for the Office of Inspector General (OIG), General Services Administration (GSA). I am accompanied today by Ms. Susan Gaffney, the Deputy Inspector General. The appropriation request for the Office of Inspector General totals $26,500,000 and fully funds 425 work years.

This is the fourth time that I have had the opportunity to appear before the subcommittee over the last three and a half years, and I think this is a good time to pause once again and take stock of what we have accomplished together during that period. Some of you were here during my first appearance in early 1986 and will undoubtedly remember the situation which I reported at that time. Human resources and funding available to support the OIG programs were at near all time lows. Employee morale was at ebb levels. Turnover was extremely high. Applied technology within the office was either obsolete, oppressively difficult to administer, or nonexistent. We entered fiscal year 1987 with 340 employees on board, with serious disparities between the composition and location of our work force vis-a-vis agency programs, and with limited ADP requirements.

Against this backdrop, as I initially reported last year, the OIG work force has been revitalized, and its operations are more clearly focused on mission accomplishments. Our younger employees have matured over these last few years. They have been schooled in our disciplines, and are beginning to attain journeyman levels of competence. They, together with our more experienced and senior staff now have the ability to draw upon the advances of technology in conducting audits and investigations. This maturity and the availability of technology is dramatically reflected in the quality of work products and the upswing in cost avoidances and recoveries since 1986. In fiscal year 1986 we obtained documented cost avoidances and recoveries (including civil and criminal recoveries) totalling $119 million; in fiscal year 1987, $125 million; and in fiscal year 1988, $163 million.[1] This represents an increased return per operational FTE (full time equivalent) position from $368,000 in 1986 to $416,000 in 1988.

Although a major factor in measuring the success of any program, productivity statistics tell only part of the OIG story. The quality of our audit and investigative coverage is improving as well. The high skill levels of our employees, supported by advanced applied technology have allowed our auditors and investigators to conduct analysis which only a few years ago would not have been feasible. We are very proud of these accomplishments.

Generally, the fiscal year 1990 OIG budget request is an extension of the fiscal policies which have contributed to our success over the last few years. It provides us with the ability to maintain a highly skilled work force, capable of responding to changing conditions and demands. It provides us with the ability to continue to implement advanced ADP technology in support of OIG operations, and at the same time provides us with a vehicle by which to avoid the pitfalls of short term ADP procurement. It provides us with an honor awards program for recognizing employees of other Federal agencies and entities, as well as nonfederally employed individuals and organizations, who significantly contribute their efforts and energies in support of the OIG.

Specifically, we request additional funding totalling $1.5 million. Nearly half of this increase—$643,000—is for nondiscretionary costs which are outside of OIG control. These nondiscretionary costs include:

—$241,000 for annualization of fiscal year 1989 pay rates

—$67,000 for increased costs associated with FERS(Federal Employees Retirement System)

---

[1] These statistics reflect results of OIG audits and investigations of GSA programs, and do not include management commitments to recover costs resulting from the fiscal year 1987 PCIE review of FTS utilization. Therefore, approximately $96 million in one-time, Governmentwide management commitments which resulted from that study are discounted in order to present an accurate picture of the increased impact of the OIG in relation to GSA.

—$104,000 for price escalation non-personnel expenses
—$231,000 for increased rent/furniture for officerelocations.

Increases which are directly related to OIG programs total $857,000. The program related increases are required to continue development and implementation of the OIG's long range ADP plans. These increases are distributed as follows:

—$780,000 for purchase of equipment
—$41,000 for purchase of software
—$16,000 for supplies
—$20,000 for maintenance.

During fiscal years 1987 through 1989 the OIG, with the assistance of the Mitre Corporation, developed and refined a long range ADP strategic plan which identifies the OIG's automation requirements for the next 5 years. Generally, this plan incorporates the acquisition and installation of comprehensive, compatible systems and networks to fulfill OIG information processing and data gathering needs in support of audits and investigations. The plan envisions the acquisition of microcomputer-based workstations; the acquisition of portable microcomputers; and the acquisition of off-the-shelf software; and acquisition and installation of local area networks (LANS) which will facilitate data and information transfers and handling.

We are also requesting authority for $1 million related to the procurement of ADP equipment, software, services and supplies to remain available for obligation beyond the fiscal year. Our experience with procurement and fiscal year cycles over the last few years has clearly demonstrated to us, that the successful completion of complicated ADP based procurement within a single fiscal year is extremely difficult. The Office of Inspector General will conclude the development of a long range ADP plan in fiscal year 1989. The first major procurement related to implementation of the plan will be undertaken during fiscal year 1990. It is anticipated that when all the procurement actions related to implementation of the plan are concluded in subsequent fiscal years the costs of this initiative will be a relatively modest $5 million. The benefits which we expect from this activity will result in improved quality of OIG products, improved staff utilization, improved accuracy in relation to the auditing and investigations of records, more in-depth coverage and analysis of available data, and we believe potentially increased returns on investment.

We also request authority to expend up to $2,500 for presentation of honor awards for persons or groups who are not employees of GSA or the OIG. These awards will recognize specific supportive efforts or unusual initiatives which result in enhanced OIG effectiveness. Although other honor award programs exist, they do not specifically address the OIG mission nor are they issued by the inspector general. We believe that such a program, will enhance the cooperation between the OIG and others and provide a positive incentive for greater operational effectiveness.

Mr. Chairman, I feel secure in stating that since the first time I appeared here, nearly 3 years ago, the OIG at GSA has successfully turned the corner and is heading in the right direction. Our morale is high, our overall productivity is up, and the results of our work are clearly demonstrated by the increased savings which we have generated over the last 3 years. Approval of the OIG fiscal year 1990 budget request at $26.5 million dollars will help insure the continuation of these results in the future.

Mr. Chairman, this concludes my opening statement. I will be pleased to respond to questions from you and from other members of the subcommittee.

CONTRACTS AUDITED

Senator DECONCINI. Thank you very much, Mr. Barton. We noticed that there is an estimated 6,000 contracts issued by GSA and you were auditing only 10 percent of those. Your justification further states that you intend to maintain that 10 percent goal in fiscal year 1990. In your view, is a 10-percent audit coverage of contracts really a reasonable level? Is that as much as you want to do or can do?

Mr. BARTON. Yes; I think 10 percent audit coverage is reasonable. Of course, with the volume of work at GSA, we could always conduct more audits. At this time, however, I am satisfied that 10 percent coverage of auditable contracts each year is adequate.

GSA issues about 20,000 contracts a year, and of that amount 6,000 of them are considered auditable. We can look at about 10 percent of those, or about 600 contracts per year.

Senator DECONCINI. Why are the other ones not audited?

Mr. BARTON. Usually the contracts which are not routinely audited are for small amounts. Some of them are merely continuations of previous contracts.

Senator DECONCINI. Is there a dollar amount that makes them auditable or not?

Mr. BARTON. There is no single dollar threshold for auditing. However, there are varying thresholds by type of contract. We try to look at those valued above $250,000, to make sure that the Government and the taxpayers get their money's worth. On occasion, depending on the situation, we'll look at the small ones as well as the big ones.

AUDITABLE CONTRACTS

Senator DECONCINI. When you say auditable, what is your definition? How does a contract fall into that category?

Mr. BARTON. As I am not an auditor myself, I may have to ask Ms. Gaffney to help me explain this concept of an auditable contract. First, let me explain, that from our position, all contracts are subject to audit; we reserve that right.

That being said, there is a refinement which technically defines this concept of auditability. This definition is actually a composite of several contracting rules which establish for contracting officers specific guidance on the types of contracts which must be referred for audit prior to actual contract award. However, factors other than cost, which could lead to a determination not to conduct a preaward audit may also be taken into consideration. Among these factors may be knowledge of the past practices and recent contractual experiences with the company, the nature of the contract itself, and existing audit workload priorities. In any event, we always have the ability to audit the performance of any contract either prior to the award or after award. Please be assured, we will audit every contract which we believe deserves to be audited.

Senator DECONCINI. With the same people.

Mr. BARTON. With the same people. We may choose not to look at it this year. These are the kinds of decisions that come into play.

Senator DECONCINI. So, if I understand it, if GSA made a contract in 1986 for so many million dollars with *x* company and you audit it then, in 1987 you don't look at it because you figure it's been renewed and it's OK, but then 1988 or 1989 you may go back and look at it.

Mr. BARTON. Yes, sir.

Senator DECONCINI. That now becomes an auditable contract; is that right?

Mr. BARTON. That is right.

Senator DECONCINI. But there is no dollar limit. You could look at one for $10,000 if you decided to do that.

Mr. BARTON. Yes, sir.

DOLLAR-VALUE OF CONTRACTS

Senator DECONCINI. What is the lowest amount of contracts that you do look at dollarwise; do you know?

Mr. BARTON. I will defer to Ms. Gaffney on that.

Ms. GAFFNEY. GSA contracting officers are required by regulations to submit to the Office of Audits all contracts for leases over $200,000, all cost-plus-fixed-fee contracts valued over $100,000, all multiple award contracts of $500,000 or more, and proposed contracts from sole source suppliers prior to award regardless of costs. Our audit managers then evaluate the request and determine whether an audit is or is not necessary. With large dollar contract, usually a determination to conduct the audit is made. However, our audit threshold may be less if circumstances warrant. Examples of such circumstances are: If there are suspicions of impropriety, if a historical pattern of problems exists, or if the contract is especially well suited for training and employee development purposes.

FIXED-CONTRACT AUDITS

Senator DECONCINI. Do you care to add anything more?

Ms. GAFFNEY. I was going to say that the clearest case of what we call not an auditable contract would be a fixed-price contract. There would be no point in the auditors going into a contractor's ledgers to look at what his costs were, in the case of a fixed-price contract.

Senator DECONCINI. Why not?

Ms. GAFFNEY. Because we have made an agreement up front that we will pay this much no matter, if he delivers.

Senator DECONCINI. That you're going to pay that amount no matter what.

Ms. GAFFNEY. As opposed to a case where, for instance, we negotiate based on what a vendor tells us his costs are going to be and we have to go back to him on that basis and verify.

Senator DECONCINI. But if GSA is going to buy a gross of glasses at a fixed-cost of 80 cents apiece, that means that you wouldn't look at that contract. What if you've got information that the supplier is going to make a 400-percent profit on it. That's not very wise for GSA to be dealing with somebody, and maybe they are paying too much. Wouldn't you want to audit their books and see if they were legitimate costs?

Ms. GAFFNEY. The contracting process in GSA is supposed to prevent that. Competition is supposed to prevent that kind of case from occurring.

Senator DECONCINI. But you don't ensure as an inspector general that that competition is working.

Ms. GAFFNEY. Oh, surely.

Mr. BARTON. We would do it in this manner, say you came in with a price of 80 cents per glass, we would want to know how you arrived at the 80 cents. What were the labor costs, indirect costs.

Senator DECONCINI. Even if it's a fixed-contract?

Mr. BARTON. Even if it's a fixed-contract.

Senator DECONCINI. You ask GSA to explain that to you.

Mr. BARTON. No; we would ask the contractor.

Senator DECONCINI. You would ask the contractor. I see, independent of GSA.

Mr. BARTON. That is right.

Senator DECONCINI. Well then aren't you auditing a fixed-contract?

Mr. BARTON. At that point, it becomes an auditable contract.

Senator DECONCINI. I don't understand, Ms. Gaffney, you say fixed-contracts are not auditable. You say that in the case that I just gave where the fixed-contract—that it could be. So is it or isn't it? Is a fixed-contract auditable by you or not?

Mr. BARTON. Under certain circumstances a fixed-price-contract can be determined to be auditable. In any event, we have the option to look at it prior to award or we could look at it post-award. If necessary, we do look at them.

Senator DECONCINI. I see.

Mr. BARTON. I guess it's a definition of when we look at the contract.

Ms. GAFFNEY. I would like to say, I was giving you a narrow technical example and Mr. Barton was discussing a broader program definition. Mr. Barton is correct. In fact, we will audit anything we think deserves to be audited.

Senator DECONCINI. You don't have a policy then that a fixed-contract is not going to be auditable in some manner, whether post or past or whatever; right?

Ms. GAFFNEY. That is correct.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. Thank you. I have to submit some other questions for you, the same with Senator Domenici. Thank you very much. We appreciate your testimony this morning.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR DECONCINI

ADP INCREASE

QUESTION: You have requested $857,000 for additional ADP equipment. Would you please explain the need for this increase?

ANSWER: Over the last few years, we have begun to rely on the use of ADP equipment in data gathering and analysis in support of audits and investigations. The initial success of applications of this technology has clearly demonstrated the potential of automation to our business. For example, our auditors used to go to a vendor during a contract audit and run samples of the vendor's sales information. Perhaps we would review 10 percent of the sales data. Obviously, the sampling technique provides a potential for inaccuracies in that 90 percent of the sales data is not reviewed. With computers we have the ability to conduct more in-depth analyses. In some instances, we have the ability to review and analyze 100 percent of the data. This becomes very important when we are comparing all sales information to government sales to ensure that the government is being afforded the "best" price. This is especially significant where it can be clearly established that a lower price has been provided to others. In such cases the government is by law entitled to the same price. The opportunity for increased recoveries and greater discounts for the government is significantly enhanced with automation.

Recently I visited our Fort Worth office, where we have hired a number of young college graduates. What I found there is very exciting. Many of these young people get to work early in the morning in order to get access to one of the three computers we have there right now. These people are very aware of the potential of automation to our business. My assessment of our automation efforts to date, therefore, are that we're on the right track, but we need to significantly increase the numbers of computers available to our people. This position was reinforced by a needs assessment conducted in conjunction with Mitre, a McLean, Virginia based think tank.

Our 1990 requested level represents first year acquisition costs related to this initiative. We estimate that total costs for adequate levels of automation will be approximately $5 million over a four-year period.

What we expect to get in return is:

- Increased accuracy in the analysis of preaward and post-award contract audit data

- Greater return on investment of audit and investigative resources

- Faster and more efficient gathering and processing of audit and investigative data

- Compatibility with vendor and GSA records

- Better audit/case management and reporting.

QUESTION: You have requested that $1 million related to the acquistion of ADP equipment remain available until expended. What is the rationale behind this request?

ANSWER: Experience over the past several years has clearly demonstrated to us that the ability to conclude a procurement integrating sophisticated ADP equipment (including mini-computer and microcomputer technology), off-the-shelf software, and networking within a one year time span is extremely difficult. We are concerned that due to the length of procurement cycles funding for this effort could lapse before a satisfactory award can be finalized.

QUESTION: You have requested authority to expend $2,500 for honor awards for employees of other federal agencies and for others. Are there not other programs authorized for this purpose?

ANSWER: There are programs available for honoring people who do not work for GSA with Public Service Awards, as well as cash awards. These awards generally are conveyed by the administrator for contributions to GSA operational programs. What we have in mind is an honor award designed to recognize individuals or organizations who, with no thought for personal reward make significant contributions to the OIG mission. What we have in mind is a non-monetary award, such as a wall-hanging plaque, which specifically recognizes the individual's or group's contribution. The $2,500 would be the total administrative costs associated with processing these awards each fiscal year.

QUESTION: For FY 90, you plan to allocate 110 positions to the Office of Investigations. What is your current caseload for Investigations and how does this compare to FY 90?

ANSWER: The Office of Investigations' open caseload stood at 371 at the end of FY 1987 and at 458 at the end of FY 1988. As of March 21, 1989 that caseload stands at 477. We would anticipate a similar increase in FY 90.

QUESTION: Are the 110 positions sufficient to detect fraud, waste and abuse in agency operations? If not, what would be a more reasonable staffing level for Investigations?

ANSWER: We think that we will be able to carry out our mission successfully at the staffing level of 110 FTE. Of course, investigative coverage could be enhanced with additional resources.

QUESTION: I notice your budget requests an increase of $857,000 to develop and implement office automation systems. Your justification states that the total 5-year cost for this system is $5 million. Have you conducted any studies to determine

what would be the productivity savings associated with this investment? If so, what were your conclusions?

ANSWER: We have not conducted a formal study as such to specifically identify or quantify productivity savings. However, recent experience demonstrates that refined data manipulation methods, and the increased accuracy related to use of microcomputers, will greatly enhance our ability to conduct both audits and investigations, with potential for far greater returns on investment. In addition, the MITRE needs assessment upon which our automation plan is based identified the systems which would be most beneficial and cost-effective in enhancing OIG operations.

QUESTION: Can you tell the committee something about your caseload. What types of investigations has your office been involved in? Are you seeing any types of trends?

ANSWER: During FY 88, over 59% of our caseload consisted of white collar crime cases. These cases involve bribery, conflict of interest, contract and procurement fraud, as well as investigations that might lead to suspension and debarment of a contractor from doing business with the government.

Part of our overall investigative operational plan is to continue to increase the percentage of white collar crime cases in our overall caseload.

We continue to see contractors defrauding the U.S. Government through false certifications and products that do not meet specifications. This is not a new trend but a continuing problem.

QUESTION: How many of the investigations conducted by your office in FY 89 have resulted in administrative sanctions and how many have resulted in prosecution?

ANSWER: During FY 88 our investigations resulted in 75 GSA employees being sanctioned. The sanctions ranged from counselling to termination.

During FY 1988, 88 subjects were accepted for prosecutions. As of the end of FY 1988, 36 persons had been successfully prosecuted.

Questions Submitted by Senator Domenici

INSPECTOR GENERAL ORGANIZATION

QUESTION: The Office of Inspector General is organizationally broken into four units, i.e., The Office of Audits; The Office of Investigations; The Office of the Counsel to the Inspector General; and The Office of Policy, Plans, and Management Systems. How many FTE positions and what level of funding is included in the fiscal year 1990 request for each of these four offices?

ANSWER: The requested funding for FY 1990 will support 425 FTE, with a planned distribution as follows:

	FTE	Funding (Thousands)
Immediate Office	9	$ 1,146
Counsel to the IG	7	380
Office of Audits	270	15,757
Office of Investigations	110	6,580
Office of Administration	29	2,637
	425	$26,500

QUESTION: Your November 1988 report indicates that the fiscal year 1989 appropriation for the Office of Inspector General is $400,000 less than the President's request and $1.7 million less than the level originally requested by the OIG, and that this reduction, coupled with the fact the office is required to absorb the costs of the January 1, 1989, pay increase, will have significant consequences. Specifically, it indicates that the OIG will have to scale back its long-range ADP plan and will only be able to support a 425 FTE position level rather than the established 452 FTE position level.

How, specifically, has the OIG had to scale back its long-range ADP plan in fiscal year 1989?

ANSWER: The OIG's initial FY 1989 total budget request was reduced by $1,300,000 by OMB and $400,000 by Congress. In addition, approximately $570,000 will have to be absorbed from operating funds for the 4.1 percent pay raise. For 1990, our initial request was reduced by $580,000 by the agency and $1,449,000 by OMB. This already represents a bigger percentage reduction for 1990 than 1989, even before possible Congressional action. This situation has forced the OIG to significantly scale back its ADP plans during the 1989/1990 time frame. For example, current estimates for these years indicate that approximately $1,364,000 will be available for hardware and software purchases, as compared to our initial requests of $3,589,000. This represents a 62 percent reduction in the areas most vital to the successful implementation of the long-range plan developed in conjunction with MITRE Corp. recommendations. Ancillary items, such as system design, maintenance, and training have also had to be reduced accordingly.

This has virtually precluded the OIG from acquiring a centralized multi-user processing capability and additional desktop workstations in FY 1989 as recommended by MITRE. The centralized processor would have provided the capability to share information in the same data bases and to process, within the GSA/OIG, externally provided tape data used in audits and investigations. In addition, plans to increase the number of desktop computers by approximately 120 units during FY 1989 cannot be undertaken, seriously impairing progress toward the goal (as recommended by MITRE) of acquiring 360 single-user microcomputer workstations over a five-year period. This also impedes progress toward achieving greater efficiency through configuration of independently-operating workstations into Local Area Networks.

Thus, the cumulative impact of these setbacks on our long-range plan is becoming increasingly serious and disruptive. Any further cuts in 1990 would seriously jeopardize fruition of this program.

QUESTION: How will the fiscal year 1989 FTE position reductions affect OIG's ability to reach the 425 FTE position level requested for fiscal year 1989?

ANSWER: The FY 1989 FTE reduction to 425 positions should not seriously affect the OIG's ability to reach the 425 level in FY 1990. With 422 personnel on-board and 10 commitments as of February 28, 1989, and with five-month cumulative FTE data straight-lining to 417 for FY 1989, the goal of 425 FTE in 1990 is reachable barring unanticipated turnover or recruitment problems.

QUESTION: The fiscal year 1990 request includes a program increase of $857,000 to continue the development and implementation of the office's long-range ADP plans.

What is the total level of funding requested in fiscal year 1990 to fund the office's ADP requirements, $1 million of which you are requesting remain available until obligation?

ANSWER: The $857,000 increase consists of:

-Purchase of equipment	$780,000
-Purchase of software	41,000
-Supplies	16,000
-Maintenance	20,000

This compares to a total of $1,791,000 for continued development, implementation, and maintenance of automated systems in 1990. Of this amount, approximately one million dollars is intended for equipment purchases. Past experience has clearly demonstrated to us that completing a procurement action integrating sophisticated ADP equipment (including minicomputer and microcomputer technology), off-the-shelf software, and networking within a one-year time span is extremely difficult. Thus, we have requested that this one million dollars remain available until expended, rather than risk available funds lapsing before an acceptable award can be made.

QUESTION: In your testimony, you indicate that OIG will conclude development of its long-range ADP plan during fiscal year 1989 and that the first major implementation of this plan will be undertaken in the fiscal year 1990.

When do you expect this long-range plan to be completed? Since it was not ready at the time the fiscal year 1990 budget request was made, how did you make a determination of your ADP funding requirements for fiscal year 1990?

ANSWER: We anticipate that the long-range plan will be completed by the fourth quarter of FY 1989, in sufficient detail to support a Request for Proposals (RFP) and other requirements of the procurement process.

The first two phases of the plan were completed at the time our FY 1990 budget request was made. This indicated our needs, types and quantities of equipment, and overall computer architecture required to support the OIG. Thus, this information became the basis for our budget estimates as costs associated with generic types of equipment fall within commonly known thresholds.

The needs assessment also indicated that desktops, portables, and small mini-computers based upon Intel 8386 microchip technology, off-the-shelf software and application of Local Area Network (LAN) technology would best meet OIG needs. Of course, the realities of the budget cycle and funding availability ultimately dictate the procurement schedule.

QUESTION: OIG is requesting authority to spend $2,500 for presentation of honor awards for persons or groups not employed by GSA whose efforts and initiatives result in OIG effectiveness.

What is the basis for this request?

What would be the average amount of such an award and who would determine when such an award should be made?

ANSWER: The basis for this request is the enhancement of OIG effectiveness by providing an incentive for employees of other Federal agencies, and private citizens, to contribute their time and effort in support of the mission, programs, and operations of the OIG, especially when they do so without thought of personal reward. Such a program would also greatly enhance the rapport and spirit of cooperation between the OIG and other organizations or individuals.

The average amount of these awards would be relatively small, generally consisting of a non-monetary award, such as a wall-hanging plaque, to specifically recognize the individual's or group's contribution. The $2,500 would also cover the administrative costs of processing these awards each fiscal year.

The Inspector General would generally determine when such an award should be made.

AUDIT RESOLUTION SYSTEM

QUESTION: Would you briefly describe GSA's audit resolution system and how the Office of Inspector General ensures resolution of its audit recommendations.

ANSWER: GSA's audit resolution system is described in detail in GSA Order 2030.2a. Briefly, the system treats internal management reviews and postaward contract reviews in a similar manner and preaward contract reviews somewhat differently.

INTERNAL AND POSTAWARD CONTRACT AUDITS

The resolution process starts when a final report is issued. For internal and postaward contract reviews, resolution occurs when GSA management and the OIG agree on the plan of action that management prepares in response to the audit report. If management and the OIG do not agree on the report recommendations or the proposed action plan, there is a process (which is time phased) by which disagreements can be escalated through senior management officials of the agency, and the OIG, to the Audit Followup Official, who is the Deputy Administrator, and who has the authority to make the final decision on whether the disputed recommendation(s) will be implemented or whether the proposed action is sufficient. This process must be completed within six months after report issuance. Final implementation of the recommendations is the total responsibility of management and must proceed as quickly as possible after resolution is accomplished. GSA management is responsible for tracking the implementation of the resolved recommendations.

PREAWARD CONTRACT AUDITS

GSA's resolution system exempts preaward contract audit reports from the requirement to resolve audits within six months from the report issuance date. It considers resolution to occur when management and the OIG agree on the recommendations in the preaward audit report, when the contract is negotiated, or when the proposed award is cancelled, whichever occurs first. Both of these provisions are consistent with OMB Circular A-50. The resolution system requires that management must review the report and notify the audit office of their position on the recommendations in the audit report before negotiations begin. If time constraints prevent management from making formal notification prior to the start of negotiations, notification can be oral and later confirmed in writing. If the audit office has strong disagreement with management's position, they have the option of advising the appropriate senior management official to stop negotiations until the issue is resolved.

OIG CONTROL OVER RESOLUTION

The Office of Audits tracks every audit report that is issued through resolution and contract settlement in a centralized computer reporting system. Reports are generated monthly showing both the resolved and unresolved audits which are sent to the appropriate field offices for verification and followup. In addition, the audit resolution and internal control division of GSA, which reports directly to the Deputy Administrator, is responsible for tracking all audit reports issued in GSA until final actions have been taken.

QUESTION: Your November 1988 report indicates that the General Accounting Office has recommended that the OIG Reports to the Congress indicate data not only on audit resolution amounts and management commitments but on actual monetary recoveries. The report indicates that OIG requested data on actual audit recoveries although such a requirement has not yet

been instituted. When do you expect this requirement to be instituted?

ANSWER: The OIG tracks all contract audit reports through settlement and all internal reports through resolution. We obtain information on actual monetary recoveries from GSA management who has the responsibility to track all audit report recommendations through final action. The IG Act Amendment (PL 100-504) dated October 18, 1988 requires agency management to track and to report to the Congress the status and final disposition of all actions resulting from audit report findings and recommendations.

QUESTION: How many audits does the OIG's office perform annually, on average? How many are performed on a contract basis? How many investigations are performed annually, on average?

ANSWER: During fiscal years 1987 and 1988, an average of 762 audits were performed each year. Of these, 537 were contract audits (OIG audits of GSA contracts) and 225 were internal audits (reviews of GSA operations). An average of 55 were performed on a contract basis, all by the Defense Contract Audit Agency (DCAA). (The DCAA audits are included in the total figures above.)

An average of 371 investigations were performed each year over the two-year period.

QUESTION: The "Audit Report Register" included as Appendix I to your November 1988 report lists six non GSA internal audits? What is the basis for these audits? (I note that five of the audits involve the review of the administrative procedures of the particular agencies.)

ANSWER: The Office of Management and Budget assigned the OIG the responsibility to handle the audit requirements of ten small agencies and/or Presidential commissions who do not have an inspector general function. Five of the audits you mention were performed as a result of this arrangement. The sixth audit was a review performed of the Merit Systems Protection Board which was done at the request of the Inspector General of that agency.

QUESTION: What was OIG's original fiscal year 1990 funding request and how does it differ, if at all, from that contained in the President's Budget?

ANSWER: The OIG's original FY 1990 funding request was $28,529,000 or $2,029,000 more than the $26,500,000 contained in the President's Budget. An initial reduction of $580,000 by the agency and an additional net decrease of $1,449,000 by OMB account for the total reduction.

SUBCOMMITTEE RECESS

Senator DECONCINI. The subcommittee will stand in recess until 10 a.m. on Tuesday, April 4, when it will take testimony from the Critical Materials Council, the Executive Office of the President, White House Residence, and the Vice President's Residence.

[Whereupon, at 11:40 a.m., Wednesday, March 15, the subcommittee was recessed, to reconvene at 10 a.m., Tuesday, April 4.]

LIST OF WITNESSES, COMMUNICATIONS, AND PREPARED STATEMENTS

	Page
Austin, Richard G., Acting Administrator, General Services Administration	935
Prepared statement	936
Banks, Samuel H., Assistant Commissioner, Inspection and Control, U.S. Customs Service	21
Barton, William R., Inspector General, General Services Administration	1031
Prepared statement	1032
Bogley, Sam, Member of the Board, U.S. Merit Systems Protection Board	895
Breger, Marshall, Chairman, Administrative Conference of the United States	215
Prepared statement	219
Brennan, Charles H., Deputy Commissioner, Operations, Internal Revenue Service	659
Letters from	689
Bryant, Chester C., Comptroller, Bureau of Alcohol, Tobacco and Firearms	412
Caldwell, William, Director of Management, Office of Special Counsel, U.S. Merit Systems Protection Board	917
Caputo, Guy P., Assistant Director for Protective Operations, U.S. Secret Service	367
Carlon, Joseph R., Assistant Director for Protective Research, U.S. Secret Service	367
Casazza, Charles S., Clerk of the Court, U.S. Tax Court	275
Cesca, Robert P., Deputy Inspector General	534
Biographical sketch	537
Coppie, Comer, Chief Financial Officer, U.S. Postal Service	843
Coughlin, Michael, Deputy Postmaster General	843
Cox, Louis, General Counsel, U.S. Postal Service	843
D'Amato, Hon. Alfonse M., U.S. Senator from New York, prepared statement	24, 215, 390, 660
Dooher, John C., Assistant Director, Washington Office, Federal Law Enforcement Training Center	475
Douglas, William E., Commissioner, Financial Management Service	554
Prepared statement	561
Drake, William T., Associate Director, Compliance Operations, Bureau of Alcohol, Tobacco and Firearms	412
Duggan, Martin L., Chairman, Advisory Committee on Federal Pay	353
Early, Bill, Deputy Comptroller for Budget, General Services Administration	935
Edwards, Don A., Assistant Director, Office of Training, U.S. Secret Service	367
Essner, Eugene H., Deputy Director of the Mint	639
Fischer, Llewellyn, General Counsel, U.S. Merit Systems Protection Board	895
Fontaine, Raymond A., Comptroller, General Services Administration	935
Fowler, Charles D., III, Assistant Inspector General for Investigations	534
Biographical sketch	538
Frank, Anthony M., Postmaster General	843
Prepared statement	843
Gaffney, Susan M., Deputy Inspector General, General Services Administration	1031
Garmon, Stephen E., Deputy Director, U.S. Secret Service	367

Page

Gearde, Frank, Jr., Chairman, Committee for Purchase From the Blind and Other Severely Handicapped 1
Prepared statement 3
Gellhorn, Ernest, Regional Managing Partner of Jones, Day, Reavis & Pogue .. 215
Gentille, Paul R., Financial Manager, Bureau of Alcohol, Tobacco and Firearms 412
Goldberg, Arthur R., Assistant Director, Federal Programs Branch, Civil Division, Department of Justice, letter from 983
Gordon, D. Lynn, Assistant Commissioner, Commercial Operations, U.S. Customs Service 21
Gregg, Richard L., Commissioner of the Public Debt 613
Prepared statement 616

Hartnett, Daniel M., Associate Director, Law Enforcement, Bureau of Alcohol, Tobacco and Firearms 412
Biographical sketch 432
Hawkins, Robert B., Jr., Chairman, Advisory Commission on Intergovernmental Relations 291
Prepared statement 297
Higgins, Stephen E., Director, Bureau of Alcohol, Tobacco and Firearms 412
Prepared statement 413
Hill, Michael R., Inspector General 534
Prepared statement 535
Biographical sketch 537

Jenkins, Garry M., Assistant Director for Investigations, U.S. Secret Service ... 367
Biographical sketch 378
Johnson, Maria, Vice Chairman, U.S. Merit Systems Protection Board 895

Kelso, William M., Assistant Director, Administration, Federal Law Enforcement Training Center 475
Kincaid, John, Executive Director, Advisory Commission on Intergovernmental Relations 291

Lee, David C., Assistant Director for Administration, U.S. Secret Service 367
Levinson, Daniel R., Chairman, U.S. Merit Systems Protection Board 895
Prepared statement 899

McDonnell, Erin, Deputy Special Counsel, Office of Special Counsel, U.S. Merit Systems Protection Board 917
Memorandum of Understanding between the General Services Administration and the Administrative Office of the U.S. Courts 973
Memorandum of Understanding between the General Services Administration and the Department of State 1001
Mihelcic, Richard J., Associate Chief Counsel, Finance and Management, Internal Revenue Service 659
Milkman, Beverly L., Executive Director, Committee for Purchase From the Blind and Other Severely Handicapped 1
Miller, R.J., Deputy Director, Federal Law Enforcement Training Center 475
Mitrisin, John, Public Buildings Service, General Services Administration 935
Morrison, Alan, Director, Public Citizen Litigation Group 215
Murphy, Gerald, Fiscal Assistant Secretary, Financial Management Service 554, 613
Prepared statement 594, 616
Murphy, Michael J., Acting Commissioner, Internal Revenue Service 659
Prepared statement 670
Letter from 692
Myers, Lucretia, Executive Director, U.S. Merit Systems Protection Board 895

Nejelski, Paul, Court Administrator, U.S. Tax Court 275
Nims, Hon. Arthur L., III, Chief Judge, U.S. Tax Court 275
Prepared statement 276
Nummy, David M., Deputy Assistant Secretary for Departmental Finance and Management, Department of the Treasury 21, 367, 412, 475, 509, 554, 613, 639, 659
Prepared statement 510

Palmer, Frank, Chief of Financial Management Division, U.S. Secret Service .. 367

	Page
Philcox, Henry H., Assistant Commissioner, Information Systems Development, Internal Revenue Service	659
Pope, Donna, Director of the Mint	639
Prepared statement	640
Raab, William von, Commissioner, U.S. Customs Service	21
Prepared statement	29
Respass, Charles B., Acting Deputy Assistant Secretary for Administration, Departmental Offices	509
Riley, William F., Comptroller, U.S. Customs Service	21
Rinkevich, Charles F., Director, Federal Law Enforcement Training Center	475
Prepared statement	485
Rosenblatt, William, Assistant Commissioner, Enforcement, U.S. Customs Service	21
Simpson, John R., Director, U.S. Secret Service	367
Prepared statement	374
Staton, Dennis, Comptroller, Federal Law Enforcement Training Center	475
Steinko, Franklin A., Jr., Budget and Management Officer, Advisory Commission on Intergovernmental Relations	291
Tanner, Lucretia D., Executive Director, Advisory Committee on Federal Pay	353
Taylor, Stephen E., Director, Finance Division, Internal Revenue Service	659
Verburg, Edwin A., Director, Financial Services Directorate, Department of the Treasury	412
Vogt, Donald E., Acting Budget Officer, U.S. Mint	639
Biographical sketch	643
Wagner, G. Martin, Acting Deputy Assistant Secretary for Information Systems, Departmental Offices	509
Wedick, John L., Jr., Deputy Commissioner, Planning and Resources, Internal Revenue Service	659
Weinstein, Jay M., Assistant Inspector General for Audit	534
Biographical sketch	537
Wieseman, Mary F., Special Counsel, Office of Special Counsel, U.S. Merit Systems Protection Board	917
Prepared statement	918
Wittington, Gary L., Assistant Inspector General for Audit	534
Biographical sketch	538

SUBJECT INDEX

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

	Page
Administrative Conference, need for	217
Conference activities are unique	237
Conference is independent	237
Improving efficiency and fairness	217
Making the Government work better	236
Programmatic capacity shrinks	219
Submitted questions	241
Table Z standards	236
Transfer code of ethics	238

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Issues and accomplishments	291
Productivity and State contributions	293
Submitted questions	336

ADVISORY COMMITTEE ON FEDERAL PAY

Advisory Committee hearings	354
Background	353
Duggan's uniformed friends	359
Gap would be gone	353
Law enforcement personnel, pay for	357
Locality pay	356
Other groups, pay issue for	358
Quad Commission, recommendations to	355
Submitted questions	359

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Budget request	2
Committee members	12
Contracts, acquisition of	13
Program and performance	5
Program description	10
Research agenda	7
Salaries and expenses	5
Submitted questions	14
Travel plans	8
Workshop sales, fiscal year 1988	7
Workshops, interaction with	11

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Agent starting salary	441
Anti-Drug Abuse Act of 1988	437
Armed career criminal program	412
Children in school and guns	442
Crack house legislation	442
Crack houses	438

Page

Jamaican Posses 436
Mexico, cooperation with 433
Minority recruitment 444
Proposed firearms legislation 433
Protective equipment 440
Public housing safety 438
Southwest investigations 434
State gun control statutes 439
Submitted questions 444
Violent gangs 434
  Expansion 435
Weapons, escalation of 440

BUREAU OF THE PUBLIC DEBT

Budget request 618
Deficit, impact on 621
EZ CLEAR project 616
Federal Reserve Bank:
  Services 619
  Shortfall 620
Ohio project 614
  Expansion of 616
Program:
  Changes 613
  Initiatives 614
Submitted questions 621
Workload data 619

DEPARTMENTAL OFFICES

Additional committee questions 514
Budget request 510
Contract studies and analysis 512
Increases, justification for 511
International affairs, fiscal year 1989 reduction to 512
Other services, increases for 513

FEDERAL LAW ENFORCEMENT TRAINING CENTER

Advanced firearms training 478
Airline transportation 484
Appropriation language 479
Artesia:
  Facility 483
  Operations 476
  Training at 484
Basic training 483
Budget, fiscal year 1990 475
Construction projects 476
Drug Enforcement Administration:
  Increased training for 480
  Training 479
Emergency facility expansion 476
Entry level salaries 480
Marana:
  Lease 476
  Operations 477
Minority employees 481
Submitted questions 490

FINANCIAL MANAGEMENT SERVICE

FTD fee payments 595
Journey toward financial management success 555
Social Security payments 594
  Sequestration impact of 595

	Page
Social Security reimbursement	594
Submitted questions	596

INTERNAL REVENUE SERVICE

Additional revenue IRS could generate	691
Addressing 1989 concerns	662
Addressing attrition problems	701
Audit coverage and collection in fiscal year 1990	703
Audit coverage:	
Decrease in	705
Need to maintain balance in	705
Rate at different income levels	704
Charts, presentation of	667
Complex returns, focusing audits on	705
Concerns, 1989	661
Drug enforcement	666
Employee discrimination complaint	692
Ensuring taxpayers' rights	666
Farm Credit Act	707
Filing season, 1988	661
Filing season, 1989	661
Fiscal year 1990	662
Forms testing	665
Freezing IRS spending, impact of	696
Higher collections with higher audit coverage	704
Improvements in taxpayer service requested in the budget	688
Improving information systems	663
Improving tax enforcement	664
Improving tax enforcement activities	669
Inviting taxpayers comments on improving IRS	690
IRS:	
All employee memo	685
Attitude of the public toward	701
Congressional liaison	706
Preparers resistance to changes	699
Reprogramming	702
Training problems faced by	700
IRS Code Section 89	692
Judgments made by the tax court, collection of	702
Maintaining a balance between service and enforcement	667
Organized crime drug enforcement	670
Program responsibilities	667
Quality	664
Quotas	702
Requested taxpayer service training increase	701
Returns audited in highest income bracket, percentage of	704
Returns filed	668
Revenue initiative estimate	690
Section 89, complying with	695
Selecting returns for examination	706
Self-prepared tax returns, number of	688
Sequestering funds, impact on IRS	697
Service and enforcement	670
Service center correspondence	663
Small business compliance with section 89 rules	693
Submitted questions	708
Tax preparers:	
Communication with	699
Impact of easier IRS forms on	697
IRS relationship with	698
Trend in using	698
Taxpayer Bill of Rights	666
Taxpayer service:	
Accuracy	663
Accuracy rate	687
Workload	668

Page

Taxpayers:
Providing better service to 662
Reducing incorrect information provided to 686
Town meetings 665
Location of 699

OFFICE OF THE INSPECTOR GENERAL

Budget submission and IG independence 547
Customs, 1990 resource negotiations with 547
Inspector general, history of 534
Resources, responsibilities, and accomplishments 535
Submitted questions 548

U.S. CUSTOMS SERVICE

Aerostats:
Evaluation of 45
Funding 52
Locations of 66
Map of 61
Operating time 48
Status of 44
Air asset comparisons 46
Air assets, deployment of 57
Air interdiction 26
Funding 54
Air program:
Cocaine seized by 23
Costs of technology 53
Deterrence 44
Statistics 42
Albuquerque hangar 56
Cocaine smuggling, methods of 66
Commercial:
Cargo enforcement 28
Processing 29
Program reduction 69
Cuba/Haiti threat assessment 67
Customs air program, media attack on 41
C³I's, joint operations of 71
Davis-Monthan Air Base, hangar at 70
Department of Defense mission 58
Drug bill funding 55
Drug trafficking through Cuba 68
E–2C's, transfer of 67
Fiscal year 1989 commercial positions 69
Ground seizures 44
Marine interdiction 27
Mexico certification 75
Money laundering 26, 73
Operation Alliance 59
Military involvement in 74
Participation of other agencies in 60
Over-the-horizon radar funding, reprogramming of 57
P–3:
Schedule 52
Status of 50
Study 46
President Bush's budget 56, 68
Seizure credit, competition for 70
Submitted questions 75
Training 73

Page

U.S. MINT

Asbestos removal 643
Budget, fiscal year 1990 639
Coin inventory level 643
Proposed legislation 645
Public enterprise fund 643
Submitted questions 646

U.S. SECRET SERVICE

Appropriation request 368, 380
Consolidated building 383
Employee retention 388
Equal employment opportunity 372
Foreign language bonus 387
FTE positions 384
Investigative activity 370
Minority recruitment 378
Pay and retention issues 368, 385
Pay equity 387
Property protection 381
Protective activity 369
Protective research 370
Retention problems, solutions to 386
Rowley Training Center 385
Submitted questions 390
Support personnel 389
Training 371
Uniformed division pay 379
Voice privacy 382

GENERAL SERVICES ADMINISTRATION

Additional committee questions 956
Border facility projects, funding of 945
Brownsville, TX, Border Station 948
Capital improvements—United States/Mexican border 937
Courts as sole tenants 952
Disposal sites 936
Drug testing 955
EPA headquarters 953
Nogales, AZ, Border Station 946
Oakland, CA, Federal Building 950
San Francisco Federal Building 949
San Luis, AZ, Border Station 949
San Ysidro/Calexico, CA 947
U.S. Courts facility requirements 951
Warehouse facility, Burlington, NJ 936

OFFICE OF THE INSPECTOR GENERAL

Additional committee questions 1036
Auditable contracts 1034
Contracts audited 1033
Dollar-value of contracts 1035
Fixed-contract audits 1035

U.S. MERIT SYSTEMS PROTECTION BOARD

Budget request, increase in 900
Budgetary impact of the studies function 899
Caseload predictions, fiscal years 1989 and 1990 901
Drug and alcohol abuse cases 901
Drug testing cases 901
Sexual harassment, report on 896
Submitted questions 902

Page

OFFICE OF SPECIAL COUNSEL

Burden of proof 922
Hatch Act 922
Submitted questions 923
Whistleblower:
  Disclosures 921
  Legislation 920

U.S. POSTAL SERVICE

Annuitant benefits 847
Estimated preferred mail volumes, fiscal year 1990 845
Facility program 849
Government mail rate 848
Postal Service:
  Constraints on 853
  Error in budget 844
  Status of 852
Revenue forgone 844
Safford, AZ, Post Office 851
Submitted questions 854

U.S. TAX COURT

Budget request 275
Case inventory 275, 279
Chiller system 280
IRS determinations 281
Submitted questions 282

93-271 (1060)